

**Unsettling the Settler Within:
Canada's Peacemaker Myth, Reconciliation, and
Transformative Pathways to Decolonization**

by

Paulette Yvonne Lynette Regan
B.A. University of British Columbia, 1984
M.A. University of British Columbia, 1991

A Dissertation Submitted in Partial Fulfillment of the Requirements for the
Degree of

DOCTOR OF PHILOSOPHY

Indigenous Governance

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University of Victoria

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Supervisory Committee

Dr. Gerald Taiaiake Alfred, (Indigenous Governance)
Supervisor

Dr. James Tully, (Indigenous Governance)
Departmental Member

Dr. Jeff Corntassel, (Indigenous Governance)
Departmental Member

Dr. Leslie Brown, (School of Social Work)
Additional Member

Supervisory Committee

Dr. Gerald Taiaiake Alfred, (Indigenous Governance)

Supervisor

Dr. James Tully, (Indigenous Governance)

Departmental Member

Dr. Jeff Corntassel, (Indigenous Governance)

Departmental Member

Dr. Leslie Brown, (School of Social Work)

Additional Member

ABSTRACT

This study challenges a popular Canadian national myth that characterizes Settlers as “benevolent” peacemakers, not perpetrators of violence in our relations with Indigenous peoples. I trace this foundational myth from its historical roots in 19th century treaty-making to a contemporary discourse of reconciliation that purports to be transformative, but simply perpetuates colonial relations. I argue that Settler violence against Indigenous peoples is woven into the fabric of Canada’s national history in an unbroken thread from past to present that we must “unsettle” and “restory,” making substantive space for Indigenous history; counternarratives of diplomacy, law and peacemaking practices, on transformative pathways to decolonizing Canada. This requires a better understanding of what role myth, ritual and history play in perpetuating or transforming Indigenous-Settler conflict. I propose a pedagogical strategy for “unsettling the Settler within” to explore the unsettling, potentially decolonizing and transformative power of testimony in public acts of restitution, apology, truth-telling and remembrance; and restorying- the making of space for Indigenous history, diplomacy, law, and peacemaking practices enacted in story, ceremony and ritual. I suggest that Settlers must confront our real identity as perpetrators - a deeply unsettling task. Dislodging the false premise of the benevolent peacemaker myth requires a paradigm shift that moves Settlers from a culture of denial that is the hallmark of perpetrators of

violence towards an ethics of recognition that guides our attempts to become *authentic* peacemakers and Indigenous allies. The study mirrors this process, linking theory to my own critical, reflective practice. I critique reconciliation discourse in a case study of Canada's approach to settling Indian residential school claims. I describe my personal experience in an apology feast held for Gitx̱san residential school survivors as an example of unsettling the Settler within and restorying that, despite its specificity, has broader applicability for designing truth-telling and reconciliation processes.

Table of Contents

Supervisory Committee	ii
Abstract	iii
Table of Contents	v
Acknowledgments	vi
Dedication	viii
Chapter One	1
Canada's Peacemaker Myth, Unsettling Settlers, and Restorying History	
Chapter Two	19
Unsettling the Settler Within: Transformative Pathways to Decolonizing Canada	
Chapter Three	79
Benevolent Peacemakers/Indigenous Diplomats: Myth, Ritual and History	
Chapter Four	142
Indian Residential Schools: Reconciliation as Contemporary Colonial Shapeshifting	
Chapter Five	198
History is Alive: Perpetrator Denial, Indigenous Testimonies, Trauma and Truth-telling	
Chapter Six	244
An Apology Feast in Hazelton: A Settler's "Unsettling" Experience	
Chapter Seven	266
From Perpetrators to Peacemakers: Settlers as Indigenous Allies	
Bibliography	282

Acknowledgments

Writing this dissertation has been an unsettling, transformative intellectual and personal journey, made richer by those who have supported me along the way. First, I acknowledge the significant debt I owe to my supervisor, Dr. Taiaiake Alfred, whose own passion for engaged, rigorous scholarship, intellectual honesty, and activism has inspired, provoked and challenged me over the years. He encouraged me to stay in the struggle, live my principles and find my own pathways to decolonization. I thank him for continuing to believe in me, and for reminding me to “just do it!” Dr. James Tully, who from the beginning, encouraged me to pursue my ideas about the importance of dialogue and negotiating history. Dr. Leslie Brown, whose deep commitment to making research and scholarship matter in the real world, inspires me. Dr. Jeff Corntassel, whose willingness to discuss issues of apology and restitution sparked and enriched my thinking. I am honoured and grateful that Maori scholar, Dr. Graham Hingangaroa Smith, Distinguished Professor in Indigenous Education, (Dept. of Educational Studies, UBC) kindly agreed to serve as my external examiner. Niis Noolh (Raymond Jones), Gitxsan member of the Indigenous Governance Council, Indigenous Governance Programs also kindly agreed to participate in the formal evaluation of this dissertation. Special thanks to Susanne Thiessen, Program Manager for the Indigenous Governance Programs at the University of Victoria, for her expert help in navigating the uncharted administrative labyrinth of being the first Ph.D. student from IGOV. Thank you all!

I thank colleagues, friends, who in various ways, contribute so much to my learning, my life, and to this work; Paula Caird, Elizabeth Fortes, Maggie Hodgson, Brenda Ireland, Michelle LeBaron, Catherine Morris, Leigh Ogston, Ramona Rose, and Deanna Sitter. I am especially thankful for the gift of my family, whose love sustains me; my children, Paul and Denise, and son-in-law, Thomas, who are my touchstones in life.

Your belief in me helps me stay true to my deepest dreams. I carry each of you in my heart always. Les, who has endured with patience and good humour the unique challenges of living with a Ph.D student. Without your technical expertise over the years, this “Luddite” would surely have been lost! Rob and Angela, for your belief in an “eccentric aunt” who follows a different path. Mike and Jeff, for letting me be a part of your lives. My niece, Barb, without whose expert help, I would still be trying to format this work! My sister, Marion and brother-in-law Joe, who have always been there for me. My love and gratitude to all!

*To the memory of my mother, Lily Lee Regan,
who taught me that truth and justice always come from the heart;
and to her grandchildren and great-grandchildren,
who carry her legacy forward.*

Chapter One

Canada's Peacemaker Myth, Unsettling Settlers, and Restorying History

From the perspective of indigenous people, original violence might best be understood as the disruption ...of a people's story...One cannot go back and remake the history. But that does not mean history is static and dead. History is alive. It needs recognition and attention...The challenge...lies in how, in the present, interdependent peoples "restory," that is...begin the process of providing space for the story to take its place...¹

Most Canadians, if asked about the history of our relationship with Indigenous peoples, would not describe it as violent. Rather we take smug pride in a cherished national myth that distinguishes between the bloody "Indian"² wars that characterized frontier settlement in the United States and the more benign settlement process that we tell ourselves occurred in Canada. In this narrative we cast ourselves in the role of "benevolent" peacemakers - "neutral" arbiters of law and justice- who negotiated treaties with Indigenous peoples, made laws and established Indian policy designed to bring to the West, the peace, order and good government that were the hallmarks of imperialism and the colonial project of "civilizing savages."³ Yet the history of treaty-making not only

¹ John Paul Lederach, *The Moral Imagination: The Art and Soul of Building Peace* (New York: Oxford University Press, 2005), 140.

² Throughout this study, I employ the collective terms, Indigenous peoples and First Nations. I use the terms "Indian," "Aboriginal," and "Native," only where the context warrants it, to reflect the vernacular commonly used in historical and public policy documents, published literature and popular media coverage. I place these terms in quotes where they first appear in the text to indicate their problematic nature. I also use quotation marks to identify conceptual terms such as "benevolent" and "neutral" peacemakers, and "reconciliation," to indicate that I use them ironically. Thereafter, in the text, I avoid encasing these terms in quotation marks because this is distracting to the reader. Throughout the text, I use quotation marks for phrases such as "civilizing savages," to make clear their derogatory and racist premises.

³ Policymaking (especially in the case of British Columbia where few treaties were signed) played a key role in colonial settlement strategy. See Paul Tennant, *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989* (Vancouver: UBC Press, 1990); Cole Harris, *Making Native Space* (Vancouver: UBC Press, 2002); Brian E. Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986).

reaffirms that we have not kept our treaty promises, but calls into question this foundational myth of the benevolent peacemaker.⁴ Today, our self-congratulatory trait persists as Canada's Settler⁵ majority continues to invoke the myth and language of benevolent peacemaking in our interactions with Indigenous peoples. The contemporary peacemaker myth is manifested daily in the processes established to negotiate modern treaties, resolve historical grievances related to Indigenous lands and resources, and settle litigation claims⁶ filed by former Indian residential school students against the federal government and various churches. Thus the myth - our collective identity as a nation of benevolent peacemakers, intent on "fixing the Indian problem" - begins with the story of treaties and colonial Indian policy, and continues today with a new storyline about achieving "reconciliation" between Indigenous peoples and Settlers. From this perspective, the new quest for reconciliation is no different than our colonial peacemaking practices of the past. Our "willingness" to negotiate and reconcile with

⁴ Arthur J. Ray, Jim Miller, and Frank Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties* (2000), xvii. For a comprehensive overview on the history of treaty-making, see especially Chapters 1 and 13. Select examples of other revisionist works include John L. Tobias, "Canada's Subjugation of the Plains Cree, 1879-1885," in *Sweet Promises: A Reader on Indian-White Relations*, ed. J. R. Miller (Toronto: University of Toronto Press, 1991); Treaty 7 Tribal Council et al., *The True Spirit and Intent of Treaty 7* (Montreal: McGill-Queen's University Press, 1996); Sharon Venne, "Understanding Treaty 6: An Indigenous Perspective," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality and Respect for Difference*, ed. Michael Asch (Vancouver: UBC Press, 1997); John Borrows, "Wampum at Niagara: The Royal Proclamation, Canadian Legal History and Self-Government," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality and Respect for Difference*, ed. Michael Asch (Vancouver: UBC Press, 1997); Canada, Royal Commission on Aboriginal Peoples. *Treaty Making in the Spirit of Co-Existence: An Alternative to Extinguishment*. 1995.; Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*; Arthur J. Ray, *I Have Lived Here since the World Began: An Illustrated History of Canada's Native People* (Toronto: Lester Publishing, 1996).

⁵ For the purposes of this study, I define Settler both as Euro-Canadians whose ancestors came to Canada in the colonial period and more recent immigrants from a variety of ethnic and cultural backgrounds. Within this multicultural context, it is still Western European philosophy, political systems, law and values that define dominant Canadian culture.

⁶ According to Indian Residential Schools Resolution Canada, the federal department whose mandate is to settle IRS claims, approximately 86,000 former students are alive today. As of January 9, 2006, 15,340 claims have been filed. Indian Residential Schools Resolution Canada, "Statistics," <http://www.irs-rqpi.gc.ca/english/statistics.html> (accessed January 9, 2006).

Indigenous peoples reinforces the national peacemaker myth both domestically and in the international arena, embedded in a discourse of reconciliation that is deeply flawed.

In this study, I challenge Canada's peacemaker myth and current reconciliation discourse to argue that Settler violence against Indigenous peoples is woven into the fabric of Canada's national history in an unbroken thread from past to present that we must "unsettle" and "restory,"⁷ making substantive space for Indigenous history - counternarratives of diplomacy, law and peacemaking practices - on transformative pathways to decolonizing Canada. My rationale for this research is based on the premise that Settlers must confront our own duplicity and hypocrisy - our denial and guilt about the past that is not really past, but continues to define our relationship with Indigenous peoples today. A relationship that is rooted in the *non-recognition* of Indigenous history and presence in what is now called Canada. The conflicts we face have deep historical roots that can be traced in the colonial peacemaker myth and the stories that Canadians tell and retell ourselves about the "non-violent" history of Indigenous-Settler relations. Therefore, Settlers must acquire a deeper historical consciousness about this history that is still alive. Yet we have paid little attention to what role myth, ritual and history play in either perpetuating or transforming these intercultural conflicts. How does the persistent colonial myth of the benevolent peacemaker, rooted in notions of Western cultural superiority and liberal neutral justice, and manifested in the public rituals enacted in courtrooms and at negotiating tables, reflect a flawed reconciliation discourse? Paradoxically, how might restorying or making space for the counter-narratives of Indigenous diplomacy, law and peacemaking practices, enacted in rituals of story and metaphor, ceremony and symbol, serve as a bridge to decolonizing and transforming our relationship?

⁷ Restorying, and other major concepts used in this study are explained more fully below in this chapter.

The interrelated process of what I call “unsettling the Settler within”⁸ – the unsettling, potentially decolonizing and transformative power of public acts of restitution, apology, truth-telling and remembrance; and restorying – the making of space for Indigenous peoples, is the subject of this dissertation. Dislodging the false premise of the benevolent peacemaker myth requires a paradigm shift that moves Settlers from a culture of denial that is the hallmark of perpetrators of violence towards an ethics of recognition that guides our attempts to become *authentic* peacemakers and Indigenous allies. The study mirrors this process. Unsettling the Settler within requires non-indigenous people to take a more critical, self reflective, anti-oppressive, anti-racist approach to decolonization, by *transforming* relationships to address violence, not simply *resolving* disputes within existing colonial structures. Therefore, I propose a pedagogical strategy for unsettling Settlers, myself and others, to explore how we might work to break the patterns of violence that continue to define our relationship with Indigenous peoples. I trace the historical roots of the benevolent peacemaker myth and the countermyth of Indigenous diplomats. I then critique the prevailing discourse of reconciliation in a case study of Canada’s approach to settling Indian residential school claims. I probe more deeply how perpetrators rationalize denial, guilt and moral indifference; justifying our actions under a guise of false neutrality that is inherently colonial. I argue that transformative, decolonizing relationships require not neutrality, but engagement as we struggle to confront our perpetrator identity as colonizers.

Reframing reconciliation as a place of encounter, I argue that Settler acts of witnessing Indigenous testimonies, making restitution and apology in shared truth-telling

⁸ The theme of unsettling settlers has been identified in Daiva Stasiulus and Nira Yuval-Davis, eds., *Unsettling Settler Societies: Articulations of Gender, Race, Ethnicity and Class* (London: Sage Publications, 1995). The authors provide a feminist analysis of socioeconomic and political structural change in settler societies that moves beyond dichotomies of gender, race, ethnicity and class. Their work focuses on the interdependent and gendered histories of Indigenous peoples and migrants within settler societies. My focus here is on linking personal and political transformation in decolonization, a process of “unsettling the Settler *within*.”

and acts of remembrance are potentially transformative for all participants. I describe my personal experience in a potlatch feast held for Gitx̱san residential school survivors as an example of unsettling the Settler within and restorying that, despite its specificity, has broader applicability for designing truth-telling and reconciliation processes in ways that support decolonization. I suggest strategies for Settlers who dare to imagine working towards a just and peaceful co-existence with Indigenous peoples. Settlers who choose to think and act as authentic peacemakers and true Indigenous allies in our everyday lives and work – those who are willing to risk engaging in the struggle of taking transformative pathways to decolonizing Canada.

Major Themes and Concepts used in the Study

Just as historical treaty and policymaking was considered essential to the legal, peaceful and orderly frontier settlement and “saving the savage,” negotiating contemporary treaties, creating “transformative Aboriginal policy,” and settling First Nations’ historical claims is now said to be critical to Canada’s political legitimacy, economic future and international human rights reputation in the global world of the 21st century, and to the socioeconomic vibrancy and well being of First Nations communities.⁹ At this particular moment in our shared history, talk of reconciliation is everywhere – in court decisions, treaty negotiations, the recent creation of a Ministry of Aboriginal Relations and Reconciliation in British Columbia, and in the call for a national truth-telling and reconciliation process to address the injustices and harms perpetrated against Indigenous peoples in the Indian residential school system. Are Settlers today truly peacemakers or are we, as Indigenous scholars and activists Taiaiake Alfred

⁹ For example, the objective of the 2004-2005 Canada-Aboriginal Roundtable dialogue is described as “transformative policy change.” Canada, Canada - Aboriginal Roundtable, “Strengthening the Relationship: Report on the Canada Aboriginal Peoples Roundtable,” (2004). http://www.aboriginalroundtable.ca/rtbl/strength_rpt_e.pdf (accessed August 20, 2005), 7.

(Kanien'kehaka) and Jeff Corntassel (Tsalagi) suggest, simply "contemporary colonial shape shifters" who continue "to erase Indigenous histories and senses of place," employing new negotiation strategies and methods that are merely subtler forms of violence than those practiced by our ancestors?¹⁰

Alfred argues that the discourse of reconciliation is actually a "huge *obstacle* to justice and *real* peacemaking"¹¹ because it is rooted in Settler "ignorance... and willful denial of our historical reality (that) detract(s) from any possibility of *meaningful discussion on true* reconciliation."¹² He says that until Settlers confront our own past and present attitudes and actions as colonizers, Indigenous-Settler relations will continue to be built on an immoral, illegal and unjust foundation of "false decolonization" that does nothing to change the colonial status quo.¹³ To me, this is the crux of the matter for Settlers and this overarching theme frames my exploration of how Settlers might take up this challenge. Until we take the necessary steps that Alfred articulates, we will remain colonial perpetrators, the benevolent peacemakers that I identify as problematic. At the same time, it is important to remember that we will *always* be in the process of decolonizing. The fundamental question that each of us must answer for ourselves is whether we choose to remain perpetrators, bearing cheap "gifts" of false reconciliation, or strive to become authentic peacemakers who are willing to be unsettled in the decolonizing struggle for transformative social change and a just peace.

Here it is important to explain some major concepts as they are used in this study:

¹⁰ Taiaiake Alfred and Jeff Corntassel, "Being Indigenous: Resurgences against Contemporary Colonialism," *Government and Opposition* 40:4(2005), (597-598, 601-602.) <http://www.wasase.org/taiaiake/writing.htm>. (accessed January 20, 2006)

¹¹ Taiaiake Alfred, *Wasase: indigenous pathways of action and freedom*, Peterborough, ON: (Broadview Press, 2005), 152. (Emphasis mine).

¹² *Ibid.*, 152.

¹³ *Ibid.*, 112-113.

moral imagination, restorying, and symbolic violence. First, I adopt John Paul Lederach's concepts of moral imagination and restorying to focus on Indigenous-Settler relations in Canada. Lederach, a scholar/practitioner who writes about conflict transformation, seeks to understand how social change occurs *in the midst* of systemic, protracted violence. He suggests that our use of moral imagination is key, providing "the capacity to imagine and generate constructive responses and initiatives that, while rooted in the day-to-day challenges of violent settings, transcend and ultimately break the grips of those destructive patterns and cycles."¹⁴ In the context of peacebuilding, he is careful to distinguish his use of the word 'moral' from 'morality.' The former speaks to our integrity and is a call to rise above the rigid dogma and ideology of morality, which by its very nature, precludes the use of imagination or creativity in addressing conflict and violence¹⁵ From this perspective, I reframe our stories of Indigenous-Settler conflict not simply as competing claims over lands and resources but as *public moral conflicts* that engage our ethical selves. This is in keeping with Sioux scholar Vine Deloria, Jr.'s observation that within Indigenous worldviews, "(t)he broader Indian idea of relationship, in a universe that is very personal and particular, suggests that all relationships have a moral content."¹⁶

Communications theorists W. Barnett Pearce and Stephen W. Littlejohn categorize "moral conflicts" as public policy conflicts that occur when participants have incommensurate social or moral values. They envision public dialogue as a forum wherein participants can bridge different world views by developing a more critically

¹⁴ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 182.

¹⁵ *Ibid.*, 27-28.

¹⁶ Vine Deloria Jr. and Daniel R. Wildcat, *Power and Place: Indian Education in America* (Golden, Colorado: Fulcrum Resources, 2001), 23.

grounded ethical stance about controversial public policy issues.¹⁷ Conflict transformation scholar E. Franklin Dukes argues that North Americans are facing a crisis of governance in which public policy conflicts are not just disputes over interests, but “involve struggles for recognition, identity, status and other resources.”¹⁸ He proposes a more broadly-based vision of public policy conflict resolution that moves beyond an ideology of management towards a more inclusive politics of social transformation that supports community well-being and responsive governance. He attributes North American society’s inability to deal effectively with a range of public policy issues and conflicts to our preference for focusing on “rights” rather than “responsibilities,” to the detriment of the public good. Within the context of social and political transformation this distinction is an important one because whereas rights are socially-constructed and legally granted (usually to individuals) – responsibilities are more informal, carry more of a collective obligation and can vary according to cultural teachings.¹⁹ It is the latter that interests me here. Engaging our moral imagination is necessary when dealing with Indigenous peoples’ demand for moral justice – political and moral accountability – from nations and institutions that perpetrated harms against them. These historical grievances require a moral response from society that goes beyond simply “settling” claims using criteria that may satisfy black letter law, but fails to provide justice.

For Lederach, restorying is the act of making new space using moral imagination to transcend violence in societies. “Embracing the paradox of relationship in the present, the capacity to restory imagines both the past and the future and provides space for the

¹⁷ W. Barnett Pearce and Stephen W. Littlejohn, *Moral Conflict: When Social Worlds Collide* (Thousand Oaks, CA: Sage Publications, 1997), 157-167.

¹⁸ Dukes focuses on the United States, but the points he raises on this issue are also applicable to Canada. E. Franklin Dukes, *Resolving Public Conflict: Transforming Community and Governance* (Manchester: Manchester University Press, 1996), 138.

¹⁹ I thank Dr. Jeff Cornassel for pointing out the importance of making this distinction. Personal Communication, June 18, 2005.

narrative voice to create.”²⁰ In the context of unsettling the Settler within, the act of using our imagination requires us to use both our intellect and our emotions. Why are emotions so important? Megan Boler and Michalinos Zembylas, scholars of transformative pedagogy, argue that by critically reflecting on our emotional reactions, we are better able to “identify unconscious privileges as well as invisible ways in which one complies with dominant ideology,”²¹ a task that is essential for unsettling Settlers. Philosopher Mary Warnock says that our capacity to imagine is linked to our ability to tap into both our intellect and our emotions, explaining that “language... arouses sentiment, but it does so only because it makes a direct appeal to our imagination, a power inextricably linked with our emotions.”²² In *If This is Your Land, Where are Your Stories? Finding Common Ground*, English literature scholar, J. Edward Chamberlin builds on this insight to point out that we do this most effectively and naturally through stories and storytelling. He says that stories help us to transcend our fixed worldviews and that it is the ‘strangeness’ of myths and stories both from other cultures and our own “that shape everything from our racial and national identities to our moral and social responsibilities.” In fact, he argues, “the strangeness is crucial” because it is the power of ‘not knowing’ that ignites our imagination, moving us in ways we do not fully comprehend.²³ I suggest that this willingness to ‘not know’ is an essential quality for Settlers seeking to become intercultural interlocutors who take history, culture and power relations into account in our interactions with Indigenous peoples. *Webster’s New Collegiate Dictionary* defines

²⁰ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 149.

²¹ Megan Boler and Michalinos Zembylas, “Discomforting Truths: The Emotional Terrain of Understanding Difference,” in *Pedagogies of Difference: Rethinking Education for Social Change*, ed. Peter Pericles Trifonas (New York: RoutledgeFalmer, 2003), 111.

²² Mary Warnock, “Ancient and Modern,” in “Crisis for Cranmer and King James,” ed. Michael Schmidt, *PN Review* (1979), np, quoted in J. Edward Chamberlin, *If This Is Your Land, Where Are Your Stories? Finding Common Ground* (Toronto: Alfred A. Knopf Canada, 2003), 124.

²³ Chamberlin, *If This is Your Land, Where are Your Stories? Finding Common Ground*, 122.

an interlocutor as “one who takes part in dialogue or conversation.” Writing from the perspective of legal philosophy, Natalie Oman describes the dialogical relationship between interlocutors and other-cultural interlocutors. She notes that “...the dialogical method must extend beyond dialogue itself to *participation* in other-cultural practices.”²⁴ Transformative decolonization requires that we do more than “just talk” as we use our moral imagination in the process of restorying our relationship.

In challenging the peacemaker myth, I consider violence as it relates to the historical injustices and ongoing legacies of colonialism perpetrated against Indigenous peoples in Canada. Vern Neufeld Redekop, a conflict resolution scholar/practitioner, identifies the “mimetic structures of violence” or broad structural forms of violence that exist in deep-rooted ethno-political conflicts, including those between First Nations and Canadians. He says that each of these structures – violent patterns of behaviour - develop their own mythos, or storyline, that we continue to follow in our relationships. They are rooted in historical relations of violence and enacted through various means of force and control with intent to harm or diminish the other.²⁵ Colonialism as a hegemonic structure, imposes dominant culture systems, values and histories upon the colonized that destroy, devalue and refuse to recognize Indigenous identities, cultures, values and histories. The colonizer and the colonized relate to each other within these mimetic structures in ways that, according to Redekop, “imitate each other’s violent attitudes, rhetoric and behaviour.”²⁶ We see a clear example of this in the discourse related to Indian residential schools that currently prevails in Canada.

²⁴ Natalie Oman, “Paths to Intercultural Understanding: Feasting, Shared Horizons, and Unforced Consensus,” in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 80.

²⁵ Vern Neufeld Redekop, *From Violence to Blessing: How an Understanding of Deep-Rooted Conflict Can Open Paths to Reconciliation* (Toronto: Novalis, 2002), 161-164.

²⁶ *Ibid.*, 161.

But most Canadians associate violence only with physical confrontation such as that which occurred during the Oka, Gustafsen Lake, Ipperwash Park and Burnt Church crises.²⁷ We are disturbed by these violent conflicts because they call into question a core belief and tenet of the peacemaker myth; that our relationship with First Nations is built on non-violence. We congratulate ourselves on the fact that armed confrontation is still the exception in Canada, seeing this somehow as proof of the moral and cultural superiority we have demonstrated by willingly negotiating with Indigenous peoples over time. We tend not to attribute this absence of physical violence to Indigenous diplomacy that is rooted in philosophies and histories of peacemaking that existed before our arrival. Nor do we see the many ways that other forms of violence, such as racism and cultural domination, power and privilege, shape everyday interactions between Indigenous peoples and the majority Settler population. Writing about the conflict that erupted between Mi'kmaq peoples and non-indigenous fishers over the lobster fishery in Burnt Church and other communities, Canadian historian Ken Coates says that "Non-First Nations readers should try to imagine the story of Canada, the Maritimes, and Aboriginal policy as an indigenous person might see it."²⁸ He notes that broken treaties, fueled by an "ideology of individuality and competitive use of resources" that is the antithesis of Indigenous collectivist societies mean that "First Nations live with the consequences of a

²⁷ For an overview of the Oka crisis, see for example, Linda Pertusati, *In Defense of Mohawk Land: Ethnopolitical Conflict in Native North America* (Albany: State University of New York, 1997); Gerald R. Alfred, *Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism* (Toronto: Oxford University Press, 1995); Geoffrey York and S. Pindera, *Peoples of the Pines: The Warriors and the Legacy of Oka* (Toronto, ON.: Little, Brown, 1991). On Gustafsen Lake, see Sandra Lambertus, *Wartime Images, Peacetime Wounds: The Media and the Gustafsen Lake Stand-Off* (Toronto: University of Toronto Press, 2004); On Burnt Church, see Ken S. Coates, *The Marshall Decision and Native Rights*, ed. Bruce G. Trigger, *McGill-Queen's Native and Northern Series* (Montreal & Kingston: McGill-Queen's University Press, 2000). On Ipperwash Park, see the Ipperwash Inquiry website at <http://www.ipperwashinquiry.ca>

²⁸ Coates, *The Marshall Decision and Native Rights*, xiv.

brutal, dehumanizing history in a way that non-Aboriginal people simply do not.”²⁹ Creating peace, then, lies not simply in the absence of physical violence, but in recognizing and taking action against the more subtle, but equally deadly forms of violence that support and perpetuate colonial relations.

In a recent study of contemporary “treatymaking” in British Columbia, sociologist Andrew Woolford builds on Pierre Bourdieu’s concept of *symbolic* violence to analyze these negotiations between governments and First Nations. For Bourdieu, symbolic violence occurs when the oppressed are encouraged through the subtle exercise of power, to participate in their own domination rather than to challenge the dominant culture status quo. Woolford argues that “affirmative strategies” based on dominant culture “common sense” ideas about what constitutes appropriate reparations for historical injustices, deliver only minor reforms. Such strategies, therefore, are not transformative, but rather serve as “a tool of assimilation.”³⁰ Within this context, Woolford argues that governments’ refusal to discuss history within the British Columbia treaty process is an example of symbolic violence that is built into the design, substance and implementation of this particular affirmative strategy.

At treaty tables, following a First Nation’s presentation on the hardships it experienced due to the policies of the federal and provincial governments, it is not uncommon to hear one of the non-Aboriginal government representatives remark: “We are here to talk about the future, not the past.” With this statement, the non-Aboriginal government representative performs, however unwittingly, an act of symbolic violence, using a position of power and discursive competence to attempt to “name,” or define, the negotiation context in terms suitable to government interests.³¹

²⁹ Ibid., xv.

³⁰ Pierre Bourdieu, *Language and Symbolic Power*, trans. G. Raymond and M. Adamson, (Cambridge, MA: Harvard University Press, 1991), cited in Andrew Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*, ed. W. Wesley Pue, *Law and Society Series* (Vancouver: UBC Press, 2005), 36-38.

³¹ Ibid., 118.

Indeed, applying the term “treaty” to this process is itself problematic given that the BCTC is based not on the principles of treaty-making, but on federal and provincial government Aboriginal policies and law. This in itself constitutes another act of symbolic violence.³² Together, the works of Woolford, Redekop and Lederach provide a conceptual framework that is useful for understanding both the patterns of violence in which the colonial relationship is embedded; and the subtle forms of symbolic violence that permeate conflict resolution processes established to address the historical grievances of Indigenous peoples. In this study, I draw on these concepts to critique the symbolic violence that exists in Canadian reconciliation discourse. Equally important, I explore how the use of moral imagination and ritual in restorying Canadian national myth and history might help us transform violent relations on pathways to justice and peace.

Why focus on the disciplines of history and law (more specifically, the emerging field of North American ADR) which are themselves deeply implicated in the colonial project? Ironically, the negotiation processes established to resolve *historical intercultural* conflicts between Indigenous peoples and the state are based on ahistorical, unicultural ADR models that fail to take Indigenous history, diplomacy, law and peacemaking practices into account. Nor do they satisfy Indigenous peoples’ demand for moral justice to be done with regard to restitution for historical grievances. Historians and conflict resolution scholar/practitioners must be more critically engaged as advocates for public education that challenges Settlers to confront the culture of denial we have created about the colonial history that is still alive, with its negative consequences for Indigenous peoples. According to historian J.R. Miller, “the contribution that history can make to

³² For an in-depth critique of the BC treaty process, see for example, Taiaiake Alfred, “Deconstructing the British Columbia Treaty Process,” in *Dispatches from the Cold Seas: Indigenous Views on Self-Government, Ecology and Identity*, ed. T. Mustonen and C. Rattray. (Tempe, Finland: Tempere Polytechnic, 2001).

understanding issues of public policy seems largely overlooked in Canada.”³³ Many Canadian historians who write about treaties, land claims, aboriginal rights issues, and Indigenous-Settler relations, are involved in litigation as expert witnesses and researchers. But they have not taken a leadership role in educating policymakers and negotiators about why history also matters at the negotiating table. Nor have they made a strong link between their own research and international studies on restitution, apology and reconciliation that explore the role of historical trauma and collective identity, public memory and historical consciousness in addressing historical grievances.³⁴ Yet these works deepen our understanding about the political and social implications of negotiating history as an essential component of redress.

At the same time, North American conflict resolution scholar/practitioners pay little attention to the central role of history in settling Indigenous-Settler conflicts. Rather the field has promoted the use of Western ADR neutrality models, and trained negotiators to focus on the future, using problem-solving “interest-based” skills to negotiate treaties and resolve historical claims. As Woolford observes, these future-oriented, problem-solving approaches enable governments to avoid discussing the past. Writing about the British Columbia treaty process, other critics note that “From the government side, ascertaining the truth is less important than shaping the future, so questions of past injustices are continually subordinated to considerations of expediency. This nullifies the possibility of constructing a shared narrative of the past or present, skewing the discourse away from its own history.”³⁵ In *Intercultural Dispute Resolution in Aboriginal Contexts*,

³³ J. R. Miller, *Lethal Legacy: Current Native Controversies in Canada* (Toronto: McClelland & Stewart Ltd., 2004), vi.

³⁴ See for example, Jeffrey C. Alexander et al., *Cultural Trauma and Collective Identity* (Berkeley: University of California Press, 2004); Peter Seixas, ed., *Theorizing Historical Consciousness* (Toronto: University of Toronto Press, 2004); Carol A. L. Prager and Trudy Govier, eds., *Dilemmas of Reconciliation: Cases and Concepts* (Waterloo: Wilfred Laurier University Press, 2003).

³⁵ R. S. Ratner, William K. Carroll, and Andrew Woolford, "Wealth of Nations: Aboriginal Treaty Making

published in 2004, a multidisciplinary group of scholars explore questions of culture and power that arise as a consequence of using neutrality-based ADR in negotiations involving Indigenous peoples in Canada.³⁶ Moreover, conflict resolution scholar/practitioners who focus on intercultural conflict resolution are beginning to consider the role of narrative, dialogue, ritual and performative practices, worldview and myth, in settling conflict.³⁷ But overall there is little sustained dialogue amongst historians, conflict resolution scholar/practitioners, legal scholars, sociologists, and political scientists who have taken up issues related to Indigenous-Settler conflict resolution.³⁸ Rather their works run on parallel tracks that rarely intersect, representing a significant gap in theory, research and practice that if synthesized would enrich what is invariably a multidisciplinary field. Here I bridge the research gap between these fields. But I also move beyond a mere synthesis of literature, linking Western and Indigenous critical theory and transformative pedagogy to my own intercultural conflict resolution practice, that is, research as praxis.

Throughout the study, I adopt the ontological stance of an insurgent educator who recognizes that experiential learning/teaching moments of discomfort – of unsettling the

in the Era of Globalization," in *Politics and the Past: On Repairing Historical Injustices*, ed. John Torpey (Lanham: Rowman & Littlefield Publishers, Inc., 2003), 235. See also Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*, 118.

³⁶ Catherine Bell and David Kahane, eds., *Intercultural Dispute Resolution in Aboriginal Contexts* (Vancouver: UBC Press, 2004).

³⁷ See for example, John Winslade and Gerald Monk, *Narrative Mediation: A New Approach to Conflict Resolution* (San Francisco: Jossey-Bass Publishers, 2000); Michelle LeBaron, *Bridging Cultural Conflicts: A New Approach for a Changing World* (San Francisco: Jossey-Bass, 2003); Lisa Schirch, *Ritual and Symbol in Peacebuilding* (Bloomfield, CT: Kumarian Press, Inc., 2005); Sara Cobb, "A Narrative Perspective on Mediation: Towards the Materialization of the "Storytelling" Metaphor," in *New Directions in Mediation: Communication Research and Perspectives*, ed. Joseph P. Folger and Tricia S. Jones (Thousand Oaks: Sage Publications Inc., 1994); Jessie Sutherland, "Reconciliation from the Inside Out: Worldviewing Skills for Everyone" (M.A. Thesis, University of Victoria, 2004).

³⁸ Some recently published works are taking this more multidisciplinary approach. See for example, Bell and Kahane, eds., *Intercultural Dispute Resolution in Aboriginal Contexts*; Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*.

Settler within - can occur in both formal and informal settings; at negotiation tables, in policymaking forums, at conferences and in community halls and classrooms. Building broader public support for social, structural and systemic change in Indigenous-Settler relations requires non-indigenous people, the majority population, to question the national peacemaker myth – the very foundation of what we believe about the history of Canada, about Indigenous peoples, and about ourselves. It is my hope that this dissertation will contribute to transformative public education dialogue about Indigenous-Settler relations and also be of practical use to other non-indigenous people who work in Indigenous contexts as policymakers, negotiators and lawyers, historians, conflict resolution scholar/practitioners, and public educators/trainers from a range of interrelated fields. This introduction provides a brief overview of the study. The remainder of the dissertation is organized as follows:

- **Chapter Two: Unsettling the Settler Within: Transformative Pathways to Decolonizing Canada**

A conceptual framework that outlines my research rationale, questions, ethical considerations, and explains the methodology I will use in this study to unsettle the Settler within. I link critical theory, transformative pedagogy and my own practice or practical experience in self-reflective vignettes that are distinguished in the text by italicized font.

- **Chapter Three: Benevolent Peacemakers/Indigenous Diplomats: Myth, Ritual and History**

I set the stage for unsettling the Settler within by explaining why understanding myth, ritual and history is essential to transforming conflicts. In a historical comparative essay, I trace the persistent myth of the benevolent peacemaker in Canada's national history and critique the concomitant neutrality myth that dominates the fields of history, law and North American conflict resolution theory/practice. I introduce the counter-myth and history of Indigenous diplomacy, law and peacemaking practices in historical and contemporary contexts.

- **Chapter Four: Indian Residential Schools: Reconciliation as Contemporary Colonial Shape Shifting**

I challenge Settlers to see how the peacemaker myth, denial of history and colonial violence is perpetuated in the current reconciliation discourse on the legacy of Indian residential schools in Canada. I set out the controversy over Canada's new ADR program that was designed to settle IRS claims. It represents a paradox of reconciliation – two conflicting visions that characterize and impact Indigenous-Settler relations more generally. Focusing on the House of Commons Standing Committee on Aboriginal Affairs and Northern Development hearings held to evaluate the ADR process, I argue that the testimony of IRS survivors and government officials reveals the tension that exists between the need for legal certainty and the call for moral justice. The controversy also reveals the power of Indigenous testimony to break through the silence of Settler denial, compelling us to listen.

- **Chapter Five: History is Alive: Perpetrator Denial, Indigenous Testimonies, Trauma and Truth-telling**

I explore the transformative possibilities of empathetic unsettlement or a pedagogy of discomfort as a pedagogical strategy for Settlers that privileges not neutrality but engagement as we shift from a culture of denial to an ethics of recognition. I explore what it means to be a perpetrator, looking more closely at the denial, guilt and moral indifference that exists in the bifurcated consciousness of Settlers. I consider apology to argue that Western criteria for restitution and apology does not take into account Indigenous ways of making restitution and apology through the stories, ceremonies and symbolic rituals enacted in Indigenous spaces. I reject the current discourse of reconciliation to reframe it as an intercultural space of public encounter that is experiential, subjective, and emotionally engaged. Within this space, Settler acts of honouring Indigenous testimony, making restitution and apology in shared truth-telling and remembrance is potentially transformative.

- **Chapter Six: An Apology Feast in Hazelton: A Settler's "Unsettling" Experience**

I describe my experience in a potlatch feast held for Gitx̱san IRS survivors in Hazelton, British Columbia in March 2004, synthesizing the themes introduced in Chapters Four and Five. The feast is an example of restorying in which the Gitx̱san decision to hold the feast constitutes an act of moral imagination. They connect the cultural loss experienced by IRS survivors to the political reclaiming of culture, family, community and nation. They bring Canada and the United

Church of Canada into the Feast Hall, not as guests, but as hosts with particular responsibilities to fulfill as we make restitution and apology according to Gitx̱san, not Western criteria. In moving from Western law to Gitx̱san law, power and control shifts from Western hands to Gitx̱san hands in decolonizing, transformative ways.

- **Chapter Seven: From Perpetrators to Peacemakers: Settlers as Indigenous Allies**

Without facing our true history as perpetrators of colonial violence, there can be no genuine transformation in Indigenous-Settler relations. Settlers who would be Indigenous allies choose pathways of transformation that teach us how to shift from being benevolent to authentic peacemakers, accepting that we will struggle, be discomforted and unsettled. I summarize briefly the main arguments of the study. I set out some guiding principles and practices for Settlers as Indigenous allies to move along decolonizing, transformative pathways in our everyday work, linking critical reflection, action and vision.

Chapter Two

Unsettling the Settler Within: Transformative Pathways to Decolonizing Canada

Setting the Research Context

Coming to know the past has been part of the critical pedagogy of decolonization. To hold alternative histories is to hold alternative knowledges... Telling our stories from the past, reclaiming the past, giving testimony to the injustices of the past are all strategies which are commonly employed by indigenous peoples struggling for justice.³⁹

Maori scholar Linda Tuhiwai Smith explains why history matters to Indigenous peoples in the struggle for decolonization. The strategic reclaiming of Indigenous histories and testimonies that put a human face on the sufferings caused by the colonial enterprise are profound acts of personal empowerment and political resistance. At the same time, how Settlers choose to engage with and understand these stories – these alternative histories and testimonies – in relation to our own history as colonizers, can work to either reinforce colonialism *or* support decolonization. Indigenous peoples have begun the hard work, the struggle of truth-telling and restorying history, but Settlers have not engaged in our own critical pedagogy – a truth-telling process about the history of colonial violence and *our* need to decolonize. Rather we have tended to deny, silence or minimize the ongoing impacts of colonialism. Taiaiake Alfred minces no words in this regard. “To deny the truth,” he says, “is an essential cultural and psychological process in Settler society.”⁴⁰ This culture of denial is rooted in Euro-Canadian delusions of cultural and moral superiority and deep-rooted racism.

What is truth? It has *multiple* meanings - one synonym for truth is certainty, but

³⁹ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London: Zed Books Ltd, 1999), 34.

⁴⁰ Alfred, *Wasase: indigenous pathways of action and freedom*, 107.

another is honesty. Challenging the peacemaker myth and critiquing reconciliation discourse requires Settlers to focus on truth-telling, being honest with ourselves and with Indigenous peoples about the history of colonial violence that we continue to deny. The South African Truth and Reconciliation Commission articulated a broad conceptual framework that encompasses not just factual or forensic truth associated with law or science, but personal narratives, social or dialogue truths, and healing or restorative truths that place “facts and what they mean within the context of human relationships.”⁴¹ In Canada, we rely heavily on determining the legal truth of First Nations’ historical claims in order to assess the extent of our responsibility, by which we mean our legal liability to compensate for past wrongs. Our response to the explosion of Aboriginal and treaty rights litigation brought forward by Indigenous peoples over the past thirty-five years has been to compel Indigenous peoples to bring their histories to court to prove that their rights still exist. We have not paid much attention to the other three concepts of truth that the Commission identified as key components of reconciliation. As a result our vision of reconciliation is narrow and legalistic, primarily concerned with reconciling Crown and Aboriginal title. When we do talk about reconciliation outside this context, particularly with regard to settling residential school claims, we focus on the need for First Nations to heal and reconcile. But reconcile what and with whom? Paradoxically, the dictionary defines “reconcile” in two ways; “to restore to friendship or harmony,” and “to cause to submit to or accept something unpleasant.” Alfred, for example, says that while Canadians talk about the former, what reconciliation means in practice is “...giv(ing) Onkwehonwe a place inside Settler society with no requirement for Settlers to forego any of their ill-gotten gains personally or collectively.”⁴² American critical race theorist Eric

⁴¹ Simon Fisher et al., *Working with Conflict: Skills and Strategies for Action* (London: Zed Books Ltd., 2000), 133.

⁴² Alfred, *Wasase: indigenous pathways of action and freedom*, 151. Alfred defines Onkwehonwe as “the original people.” See Glossary, 288.

Yamamoto argues that interracial justice requires *both* “material changes in the structure of the relationship (social, economic, political) to guard against ‘cheap reconciliation,’ (that) is just talk...(and) the kind of recognition and redress of deep grievances that sparks a joint transformation in consciousness, diminishes enmities and forges new relational bonds.”⁴³ Many Canadians would argue that we *are* making material changes by negotiating treaties, settling historical claims related to lands and Indian residential schools, and devolving self-government to First Nations communities in key areas of health, education and welfare. Ever the benevolent peacemakers, we extol our own virtues of generosity and willingness to “accommodate” Indigenous peoples by returning to them small fragments of what we have taken. In reality, we have “given” nothing willingly, Indigenous peoples have fought for every small victory, every small change that has allowed them some human dignity and justice. And of course, much of what we have taken has no price tag and can never be fully returned. How do you give back a stolen childhood and lost families, stolen lands, lost cultures and languages? While it cannot be said that *no* material change has occurred, because strictly speaking, we have done *something* more than “just talk,” the reconciliation we offer is parsimonious at best. We are, it seems, a very long way from the kind of truth-telling and joint transformation in consciousness that might produce deep social change on pathways to decolonizing Canada. Reconciliation as it is currently framed is forged in denial and guilt, not transformative possibility and that is why it cannot succeed.

In this sense, we are part of what American historian Elazar Barkan identifies as a new global phenomenon of “national self-reflexivity” in which “guilty nations” - stable democracies like Canada - are grappling with the unresolved moral and ethical legacies of their oppressive colonial pasts. Nations, as perpetrators of past wrongs against the

⁴³ Eric K. Yamamoto, *Interracial Justice: Conflict and Reconciliation in Post-Civil Rights America*, ed. Richard Delgado and Jean Stefancic, *Critical America* (New York: New York University Press, 1999), 11.

colonized, are now negotiating willingly with victims seeking restitution⁴⁴ for historical injustices. But despite our “willingness” as 21st century benevolent peacemakers to negotiate and reconcile with Indigenous peoples, the reality is that overwhelming poverty, poor health, low levels of education and high levels of violence continue to characterize life for First Nations individuals and communities. Systemic racism and violence towards Indigenous peoples is an ongoing reality that is periodically exposed.⁴⁵ We are not unaware of this reality because a multitude of comprehensive government reports, including the *Report of the Royal Commission on Aboriginal Peoples*, coupled with extensive media coverage of First Nations issues, makes it virtually impossible for us not to *know*. What we choose to deny is our complicity in perpetuating a colonial system that is rooted in violence and social injustice.

Philosopher Trudy Govier writes about the Canadian propensity to deny by ignoring or minimizing these truths we already know because they “are incompatible with the favoured picture we have of ourselves,” but she reminds us that “through patterns of colonization, land use, racism, disregard for treaties, and the residential school system, we are linked significantly to the institutions that are responsible...as members of the society and as citizens of the state, we share responsibility for these things...we...are beneficiaries of the injustices.”⁴⁶ Viewed in this way, our willingness to negotiate is

⁴⁴ Barkan defines restitution broadly “to include the entire spectrum of attempts to rectify historical injustices,” such as the return of, or compensation for material belongings, reparations for loss of life, culture, identity and economic benefits, and apology for wrongdoing. Thus he views restitution as “not only a legal category but a cultural concept.” Elazar Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustice* (Baltimore and London: The John Hopkins University Press, 2000), xix.

⁴⁵ In addition to the references cited above with regard to Oka, Gustafsen Lake, Burnt Church and the Ipperwash Inquiry, on the death of Neil Stonechild, see Hon. Mr. Justice D.H. Wright, “Report of the Commission of Inquiry into Matters Relating to the Death of Neil Stonechild,” (Commission of Inquiry, 2004) <http://www.stonechildinquiry.ca/finalreport/default.shtml> (accessed January 4, 2006) On violence against Indigenous women in Canada, see Amnesty International, “Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada,” (2004). <http://www.amnesty.ca/stolensisters/amr200304.pdf> (accessed January 3, 2006)

⁴⁶ Trudy Govier, “What Is Acknowledgement and Why Is It Important?” in *Dilemmas of Reconciliation:*

mediated by our willfull ignorance – our selective denial of those aspects of our relationship that truly threaten our privilege and power – the colonial status quo. Negotiations take place within an environment of what sociologist John Torpey calls “reparations politics” that is, the broad field of related activities that we engage in to address historical injustices, including material compensation, apologies, the re-writing of historical narratives, and commemoration.⁴⁷ He observes that Indigenous peoples, whose individual and collective rights have been circumscribed, challenge the very legitimacy of liberal democracies built on the promise to protect rights and ensure equal justice for all. He makes a point that is central to this study. When the focus is on colonizers as individual “perpetrators” the number of victims is smaller. However, when colonizers are understood as “beneficiaries” of a system created and perpetuated by inequality and inequities, then the number of victims harmed increases exponentially. Dealing with claims based on the actions of individual perpetrators is a matter of criminal or civil justice. But when the benefits, privileges and wealth that colonizers have reaped from Indigenous lands and resources are factored in, the stakes become higher. It is this “link between conquest and dispossession, between racialized power and racialized privilege, *between perpetrator and beneficiary*,”⁴⁸ that must be made visible and taken into account. In his study of the various forms of denial that people engage in, sociologist Stanley Cohen says we should not focus on “why denial occurs,” in societies because it always will to varying degrees, but on the more challenging “political problem of how to create

Cases and Concepts, ed. Carol A.L. Prager and Trudy Govier (Waterloo: Wilfrid Laurier University Press, 2003), 78-79.

⁴⁷ John Torpey, "Introduction: Politics and the Past," in *Politics and the Past: On Repairing Historical Injustices*, ed. John Torpey (New York: Rowman & Littlefield Publishers, 2003), 5-7.

⁴⁸ Mahmood Mamdani, “A Diminished Truth,” in *After the TRC: Reflections on Truth and Reconciliation in South Africa*, ed. Wilmot James and Linda van de Vijver (Athens, OH: Ohio University Press, 2001), 59, quoted in Torpey, *Politics & The Past*, 10. (Emphasis mine).

the conditions wherein people choose to *act* instead.”⁴⁹

This is the challenge that faces us. Under what circumstances would Settlers who are beneficiaries of colonialism stop denying, making substantive space for Indigenous peoples by giving up some of our power and privilege? There are of course, many ways one could explore this conundrum. There is no shortage of issues to analyze. But I focus here on history because, as Barkan suggests, it has become “a crucial field of political struggle”⁵⁰ wherein the history of perpetrators and victims must be understood relationally as a “new form of political negotiation that enables the rewriting of memory and historical identity in ways that both can share.”⁵¹ This history plays itself out at negotiating tables and in a discourse of reconciliation that, as it stands, may not only fail to reconcile Indigenous-Settler relations, but may actually do more harm. The late Edward Said wrote about the links of imperialism, culture and history shared by the colonizer and colonized, despite the unequal power relations that exist between us. He says that our stories – our narratives of nations and peoples - are key to understanding the relational nature of imperialism and our historical experience.⁵² The individual strands of our shared history are intertwined inexorably, yet in our attempts to negotiate resolutions to a myriad of Indigenous-Settler conflicts, we remain stuck – even comfortable - in the binary roles of colonizer/colonized, oppressor/oppressed, and perpetrator/victim. Both Barkan and Said articulate the need for a shared history of our colonial experience that invites us to work with complexity, intersubjectivity and multiplicity in ways that move us away from binary thinking. This is congruent with anti-oppressive theory that

⁴⁹ Stanley Cohen, *States of Denial: Knowing About Atrocities and Suffering* (Cambridge: Polity Press, 2001), 249. (Emphasis mine).

⁵⁰ Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustice*, x.

⁵¹ *Ibid.*, xvii-xviii.

⁵² Edward W. Said, *Culture and Imperialism* (New York: Vintage Books, 1994), xii-xiii, xxi-xxii.

“move(s) beyond theorization of representations and resistance to ‘Othering’ to an analysis of what it means to have a society that is difference-centred.”⁵³ The extent to which Settlers are willing to struggle to be truthful - that is - honest, in challenging the peacemaker myth, facing history and ourselves, will determine our ability to break out of the oppressive role of colonizer and perpetrator of violence against Indigenous peoples.

The decolonizing Indigenous strategies that Tuhiwai Smith describes are those of reclaiming history and giving testimony. Settler strategies have remained those of colonization – the silencing and erasing of Indigenous histories; legal strategies that require Indigenous peoples to “prove” their history according to our cultural values; and the denial of colonial violence. Settler decolonizing strategies must involve recognizing Indigenous histories, naming colonial violence, and accepting the truths of Indigenous testimonies. The restorying that Lederach describes, the making of space for Indigenous histories, diplomacy, law and peacemaking practices requires truth-telling on both sides. This truth-telling cannot be about determining the “one truth” of positivism, nor the morally vacant poststructuralist “multiple truths in which all claims are perspectival and partial...for then how,” asks feminist scholar and activist Susan Strega, “can the truths we uncover...provide us with a rationale for political action?”⁵⁴ If reconciliation in the 21st century is to be something more than the falsely benevolent peacemaking of our ancestors, then Settlers must become unsettled enough to step onto transformative pathways – to dislodge the Western delusions of cultural and moral superiority and deep-rooted racism that Alfred describes.

⁵³ Mehmoona Moosa-Mitha, "Situating Anti-Oppressive Theories within Critical and Difference-Centred Perspectives," in *Research as Resistance: Critical, Indigenous & Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholar's Press/Women's Press, 2005), 63.

⁵⁴ Susan Strega, "The View from the Poststructuralist Margins: Epistemology and Methodology Reconsidered," in *Research as Resistance: Critical, Indigenous & Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto, Ont.: Canadian Scholar's Press/Women's Press, 2005), 214.

Research Strategy - Rationale, Epistemology and Methodology

In the remainder of this chapter, I outline a research rationale to guide me on transformative pathways to decolonizing Canada, exploring the role and responsibility of Settlers in decolonization to articulate a personal and political transformative strategy for unsettling Settlers - myself and others - that is rooted in research as praxis. I articulate epistemological underpinnings, identify research questions and map out a methodology to pursue the major themes of the study. In doing so, I begin with the assumption that all research is political and that an ethical approach to research requires transparency, accountability and a clear articulation of my location and identity within that context. My first task then is to "...interrogate my own position as researcher to make clearer the ethical struggle that is always a part of the endeavor...to know."⁵⁵ I intend to explore the ways in which non-indigenous people might first name and then transform the Settler – the colonizer that lurks within - not just in *words*, but by our *actions* to fully recognize and engage with the history of colonization, violence, racism, injustice, and cultural trauma that is still alive. According to the dictionary, to unsettle is to "loosen or move from a settled state or condition...to perturb or agitate mentally or emotionally."⁵⁶ How Settlers might struggle to decolonize in ways that are unsettling and transformative is the subject of this dissertation and I begin by reflecting on its genesis.

Reflections

In October, 2004, I attend an academic conference on democratic constitutionalism, held at the University of Victoria in British Columbia, Canada.⁵⁷ The

⁵⁵ Dian Lynn Million, "Telling Secrets: Sex, Power and Narrative in the Rearticulation of Canadian Residential School Histories" (Ph.D dissertation, University of California, Berkeley, 2004), 6.

⁵⁶ As defined in *Webster's New Collegiate Dictionary*

⁵⁷ Author's conference notes. DEMCON. Consortium on Democratic Constitutionalism. University of Victoria. Victoria BC Canada. Oct 1-3, 2004.

focus of the conference is the issue of consent as it relates to Indigenous peoples within Western liberal democracies. Anishinabek legal scholar John Borrows speaks on the topic of "Human Agency, Treaty and Political Theories of Consent." He does not present an academic paper, but instead tells a story about family. Afterwards, a Euro-Canadian scholar asks if he will explain how his story relates to the title of his talk. This request is challenged by a young Indigenous law student who says that within her culture, the story does not need explaining. Rather, the listener must reflect on its meaning and relevance for his/her own life, in order to understand the teachings that the story and the storyteller offer. She reminds us that at the conference dinner held the night before, we had talked about whether or not it is possible to have an intercultural dialogue. One way of doing this she says, is to engage the story and the storyteller respectfully. Her comments spark an intense, emotionally-charged dialogue about the differences between Indigenous and Western ways of listening and learning and about the pervasive nature of colonialism.

Another Euro-Canadian conference participant probably speaks for many in the audience when he says that "the discourse about colonialism is disquieting" for him as a non-indigenous person. He poses a provocative question - "can we only engage in dialogue as enemies?" - giving voice to a sense of frustration and hopelessness that characterizes many such exchanges between the Indigenous and non-indigenous in a variety of venues. Nor can we take comfort in the closing remarks made by the final conference panel. Canadian philosopher James Tully says that John Borrows' story tells us that "we need to learn to listen differently...to shake free from the sediment of colonial history to listen to why First Nations resist." Taiiaki Alfred sums it up, saying "there needs to be struggle in order to lay out a path to co-existence, and the process of being uncomfortable is essential for non-indigenous people to move from being enemy to adversary to ally."⁵⁸

⁵⁸ Ibid.

For several days after the conference, I reflected on this dialogue. It seems to me that the reluctance or inability of the non-indigenous audience to “hear” John Borrows’ story reveals a deeper chasm, one that I have seen before. It is the gap between what we (as Settlers) think we are doing - which is engaging with good intentions in an intercultural dialogue, and how Indigenous peoples experience that same event as a manifestation of deeply ingrained institutional colonialism and attitudes. In these situations what we are really doing, whether unconsciously or not, is asking Indigenous peoples to fit within our cultural paradigm - to have the intercultural dialogue on our terms, not theirs. And when this is pointed out to us we get uncomfortable. I began to think about my own experiences of being uncomfortable, working as a Euro-Canadian woman within Indigenous contexts. Over the past twenty years, my decolonizing journey has taken me from the “safe haven” of quiet archives, where I spent my days doing historical research on aboriginal rights, land claims and treaty issues, to the “uncharted terrain” of First Nations-government politics, as I worked on policy negotiations for the Union of BC Indian Chiefs (UBCIC), which in 1998, was involved in various policy tables with the provincial government. During this time, I was privileged to be guided by Old Crow elder, Millie Poplar, who worked with George Manuel in the early days at UBCIC. I also began doctoral work at the University of Victoria in the Indigenous Governance Programs, focusing on the multidisciplinary fields of Indigenous studies and alternative dispute resolution or ADR – an emerging sub-field of law that posits negotiation, mediation and adjudication as constructive, timely, and cost effective alternatives to litigation. From 2002-04, I put my doctoral work aside temporarily to work for the federal government, which was developing an ADR program to settle Indian residential school (IRS) claims. Engaging in this work, in conjunction with my academic studies, only reinforced my growing conviction that North American mainstream ADR

approaches cannot address adequately the historical, cultural and relational dimensions of Indigenous-Settler conflicts that are rooted in the violence of colonialism. I left my job, returning to the university to write this dissertation. The conference marked my re-entry into the world of critical thinking and academic discourse.

Shortly after I attended the conference, I also read the works of two Indigenous thinkers and activists - George Manuel, writing in the 1970's, and Taiaiake Alfred, whom I refer to above. They are catalysts for my thinking about the connections between unsettling the Settler within, the role of myth and history in decolonizing Indigenous-Settler relations and the use of imagination or creativity in confronting and transforming conflicts not just through words but by our actions. Manuel (1921-1989) was a Secwepemc (Shuswap) chief from the interior of British Columbia, Canada, and former president of two Indigenous political organizations - the National Indian Brotherhood and the Union of BC Indian Chiefs. As a leader in the native rights movement in Canada, and founder of the World Council of Indigenous Peoples (1975-1981) he was an activist and political visionary whose work on behalf of Indigenous peoples spanned the globe.⁵⁹ In *The Fourth World: An Indian Reality*, he observed that:

When we come to a new fork in an old road we continue to follow the route with which we are familiar, even though wholly different, even better avenues might open up before us. The failure to heed (the) plea for a new approach to Indian-European relations is a failure of imagination. The greatest barrier to recognition of aboriginal rights does not lie with the courts, the law, or even the present administration. Such recognition necessitates the re-evaluation of assumptions, both about Canada and its history and about Indian people and our culture...Real recognition of our presence and humanity would require a genuine reconsideration of so many people's role in North American society that it would amount to a genuine leap of imagination.⁶⁰

⁵⁹ For a fuller account of his work, see George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (Don Mills: Collier-Macmillan Canada Ltd., 1974); Peter McFarlane, *Brotherhood to Nationhood: George Manuel and the Making of the Modern Indian Movement* (Toronto: Between the Lines, 1993). A short biography is available at <http://www.ubcic.bc.ca/george.htm>

⁶⁰ Manuel and Posluns, *The Fourth World: An Indian Reality*, 216-217.

Manuel penned these words in 1974. Thirty-two years later, most ordinary Canadians have yet to take this genuine leap of imagination to question more deeply our assumptions- our myths- about Canada's past, or to understand how they influence our relationship with Indigenous peoples today with regard to historical conflicts, reconciliation and peacemaking. Manuel spent his life resisting the systemic political, economic and social injustices faced by Indigenous peoples everywhere. For the purposes of this study, I want to focus particularly on the cultural, psychological and relational aspects of colonialism that Manuel identified as significant obstacles to decolonization. He saw the root of the problem in Canada - our persistence in clinging to old colonial myths that keep us in a state of denial, fear and guilt. Myths that inhibit our ability to imagine something different. But he also saw a way forward – a new path that would lead to a more peaceful co-existence between us. A path that should we choose it, requires Settlers to think more deeply about what it would mean to *fully* recognize and respect the *presence and humanity* of the Indigenous peoples whose lands we now share. Speaking in 1972, Manuel articulated this in his vision of Indigenous-Settler relations. “The question now is for non-Indian North Americans to decide how they want to relate to this struggle. We will steer our own canoe, but we will invite others to help with the paddling.”⁶¹ George Manuel was a rare combination of visionary and grass roots pragmatist who saw clearly that the work of decolonization cannot rest on the backs of Indigenous peoples alone. He knew that Canadians have a different, yet critical role to play on this front - one that we must figure out for ourselves.

In 2005, Alfred, in *Wasáse: indigenous pathways of action and freedom*, sets out an empowering vision for Indigenous peoples to move along a “new warriors’ path” to

⁶¹ Speeches by George Manuel, President of the National Indian Brotherhood, 1970-1976, Part 1. Ottawa: Clive Linklater.

freedom and peace through personal and political transformation that is grounded, not just in words, but in the decolonizing choices and actions of everyday life. Colonialism can then be understood not only as something that exists in huge institutional structures that seem unassailable, but as a force that can be confronted, resisted and acted upon at the individual and local level.⁶² This way of being in the world is not constrained by what he calls the “politics of pity, such as self-government processes, land claims agreements, and aboriginal-rights court cases.”⁶³ Rather it is contingent upon working outside these parameters in order to achieve real freedom from the destructive legacies of colonialism and imperial forces today. A freedom that is rooted in Onkwehonwe spiritual, cultural and philosophical values. In this way, he says, Indigenous peoples will create a new ethical and political vision on a path to peace, within themselves, their communities and nations, and potentially, with Settlers.

In setting forth his strategic vision, Alfred also calls upon non-indigenous people who would be allies - those “who are capable of listening...to share our vision of respect and peaceful coexistence...(and to) creatively confront the social and spiritual forces that are preventing us from overcoming the divisive and painful legacies of our shared history as imperial subjects.”⁶⁴ Creative confrontation or non-violent conflict is an inevitable part of this process, he says, but it will be “conflict for a positive purpose” to help us restore relations between us based on “re-establishing respect for the original covenants and ancient treaties that reflect the founding principles of the Onkwehonwe-Settler relationship.”⁶⁵ Ultimately, as Alfred suggests, this can only be achieved through a decolonizing struggle on both sides. Our respective paths in this struggle are different, but

⁶² Alfred, *Wasase: indigenous pathways of action and freedom*, 24-25.

⁶³ *Ibid.*, 20.

⁶⁴ *Ibid.*, 35.

⁶⁵ *Ibid.*, 21.

our goal is the same - transforming the social and political landscape to enable us to co-exist peacefully. Simply put, the task before us is to transcend the old colonial roles and imperial mindsets that keep us trapped in a relationship of violence that is defined by the historical dichotomies of colonizer/colonized, oppressor/oppressed and perpetrator/victim. At the same time, we must create a positive political vision by transforming, re-imagining our relationship, drawing on the principles and practices of old intercultural treaty diplomacy. In essence, Manuel and Alfred cut to the deep heart of the matter. Both Indigenous peoples and Settlers must take action that is radically different if we are to change our relationship in ways that support moving from a culture of violence to a culture of justice and peaceful co-existence. They point the way for Settlers who want to take up the challenge, but *we* are responsible for finding our own transformative pathways to decolonizing Canada.

Research Question(s)

The impetus for this research stems my desire to link my theoretical knowledge and practical work experience – my practice - as a way of exploring the questions that were sparked by the dialogue I had witnessed at the conference and in my reading of Manuel and Alfred. From this starting point, I began to identify and probe some key questions and themes. How, practically speaking, do allies - Settlers who are capable of listening - respond to Alfred's powerful critique of Settler society and his invitation to creatively confront the forces that divide us, keeping us locked in uneasy relationships with Indigenous peoples that are marked by denial, fear, guilt, racism, distrust and anger? What does Manuel's observation about the role of Settler assumptions – the myths we live by - say about the role of myth in the history of Indigenous-Settler relations? How would dialogue enable us learn to listen and to act differently in relation to Indigenous

peoples, helping us to shake free from the sediment of colonial history? How might recognizing and respecting Indigenous history, law, diplomacy and peacemaking practices that are rooted in story, ceremony and symbolic ritual, change the discourse of reconciliation? Much of my practice as a historical researcher, policy analyst and negotiator has occurred at the intersection of history, law and ADR, so I was curious as to what role Settler myths about history and law play in addressing deep historical grievances, social injustice and cultural trauma. Several sub-questions emerged:

- What are our foundational myths and how do they shape Settler attitudes towards Indigenous peoples?
- How does the liberal myth of law's neutrality influence the design of Western-based ADR processes and why is this problematic?
- What is the role and responsibility of non-indigenous people in decolonization?
- What role does the use of imagination or creativity play in unsettling the Settler within, enabling us to take Manuel's genuine leap of imagination?
- What does it mean to *listen* and how do we engage *creatively* in dialogue about history in ways that go beyond "just talk," moving us to interact with Indigenous peoples in ways that support decolonization?

Reframed, my research question is this. How do Settlers engage in the struggle of decolonizing our history of colonial violence, challenging the peacemaker myth and reconciliation discourse to *become* Indigenous allies, making space for Indigenous history, diplomacy, law and peacemaking practices? In mapping out how I explore this question, I explain the epistemological underpinnings and methodology of this study.

The Settler Problem – Situating myself as Researcher

By itself...correcting the historical record is not enough to ensure fundamental change. There is a parallel process that requires Euro-Americans to let go of assumptions that surround the inferiorization of First Nations and the denigration of our contributions...In my view, Euro-Canadian scholars and politicians must

stop addressing what we First Nations must do and address what they (and Canada) must do.⁶⁶

Why focus on Settlers? Mohawk scholar Patricia Monture articulates compelling reasons that hearken back to Manuel and Alfred – the process by which we must let go of our myths of Settler superiority – the peacemaker myth – and concomitant myths about Indigenous inferiority that devalue Indigenous stories of peoplehood. A consequence of this devaluing is that we have erased from mainstream North American consciousness, Indigenous presence on the landscape.⁶⁷ Monture reminds us that historical revisionism in and of itself is inadequate to change relationships in deep, transformative ways, and that Settlers should focus on our own work in decolonization. I am influenced by Tuhiwai Smith's work on decolonizing methodologies in which she critiques the historical and theoretical foundations of Western research paradigms and practices, and lays the foundation for an Indigenous research agenda that supports decolonization and self-determination for Indigenous peoples. Written primarily for Indigenous researchers, she also challenges Western researchers to examine the often unquestioned cultural, intellectual and methodological paradigms that define our work.⁶⁸ Writing about qualitative research, Denzin and Lincoln note that critical theorists ground their work in historical and structural knowledge which seeks "to produce transformations in the social order...(that is) praxis, or action."⁶⁹ But despite a commitment to social and political praxis, a critical approach is not without problems. Indigenous scholars point out that

⁶⁶ Patricia Monture-Angus, "Citizens Plus: Sensitivities Versus Solutions," in *Bridging the Divide between Aboriginal Peoples and the Canadian State* (Montreal: Centre for Research and Information on Canada (CRIC), 2001), 8-9.

⁶⁷ See for example, Roger G. Kennedy, *Hidden Cities: The Discovery and Loss of Ancient North American Civilization* (New York: Penguin, 1994); Cole Harris, *The Resettlement of British Columbia: Essays on Colonialism and Geographical Change* (Vancouver: UBC Press, 1997).

⁶⁸ Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*.

⁶⁹ Norman K. Denzin and Yvonne S. Lincoln, eds., *The Landscape of Qualitative Research: Theories and Issues* (Thousand Oaks: London Sage Publications Inc., 1998), 187.

Western academics – critical theorists, anthropologists, historians and others – often wear cultural blinders that define historical and structural knowledge within a White Western paradigm that continues to oppress and colonize Indigenous peoples, excluding or marginalizing Indigenous worldviews, knowledge and history. They argue that Indigenous peoples must speak with their own voices about their histories, their cultures and their experiences as peoples who continue to resist the onslaught of colonial structures, policies and practices.⁷⁰ They rightly criticize Western scholars who research and write in ways that appropriate or ignore Indigenous knowledge systems. This does not, however, absolve the non-indigenous from our responsibility to address our shared colonial history. Rather we should do so from our own perspectives and in ways that move us away from the objectifying thinking that inevitably makes Indigenous peoples the “other” and views them as “problematic.”

As I thought about these thorny issues of voice, legitimacy, power and representation in the writings produced by non-indigenous scholars about Indigenous peoples and issues, it became glaringly obvious to me that we are still overly-focused on researching, analyzing, and interpreting Indigenous experience. What is missing is a corresponding research emphasis on our own experience as descendants of Settlers who colonized. Political theorist Roger Epp provides insight on this point:

⁷⁰ This scholarship is now extensive, but in addition to Tuhiwai Smith, see Devon A. Mihesuah, ed., *Natives and Academics: Researching and Writing About American Indians* (Lincoln, Nebraska: University of Nebraska Press, 1998), 1-22; Vine Deloria Jr, "Comfortable Fictions and the Struggle for Turf: An Essay Review of the Invented Indian: Cultural Fictions and Government Policies," in *Researching and Writing About American Indians*, ed. Devon Mihesuah (Lincoln, Nebraska: University of Nebraska Press, 1998); Deloria Jr. and Wildcat, *Power and Place: Indian Education in America*; Elizabeth Cook-Lynn, *Anti-Indianism in Modern America: A Voice from Tatekeya's Earth* (Urbana and Chicago: University of Illinois Press, 2001), 196-210; Kathy Absolon and Cam Willett, "Putting Ourselves Forward: Location in Aboriginal Research," in *Research as Resistance: Critical, Indigenous & Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholar's Press/Women's Press, 2005), 106-108; Marie Battiste, ed. *Reclaiming Indigenous Voice and Vision*. (Vancouver: UBC Press, 2000); Marie Battiste and James (Sa'ke'j) Youngblood Henderson, *Protecting Indigenous Knowledge and Heritage: A Global Challenge*, ed. Purich Publishing Ltd., *Purich's Aboriginal Issues Series* (Saskatoon, SK: Purich Publishing Ltd., nd).

My interest here lies in rethinking the relationship in ways that correct the inevitable, singular focus on the aboriginal side of it, so that instead of posing the question about reconciliation as a matter of what “they” want -recognition, compensation, land - and what “we” can live with, the subject under closest scrutiny becomes “ourselves.” In other words, the subject is not the “Indian problem” but the “settler” problem.⁷¹

As I pondered this possibility of focusing on the Settler as a research problem, I began to see its potential as decolonizing strategy. Yet I am also aware that in making Settlers the subject of study, there is a danger that I would simply replicate dominant culture epistemic privilege, making the issues “all about us.” I talked informally to Indigenous and non-indigenous colleagues from the university and my former workplace and also presented my early thoughts on the topic at an Indigenous Governance Ph.D symposium in January 2005. The feedback I received was very encouraging as people indicated that such an approach was long overdue. This is further substantiated in the literature. Writing about reconciliation initiatives in Australia, Cree-Saulteaux-Dunne Zah legal scholar, Val Napoleon criticizes “intercultural” dialogue that is essentially a monologue in which Indigenous peoples are expected to tell us about their culture, their relationships to the land and resources, but no reciprocal explanation about Western culture or history is forthcoming from non-indigenous participants. As a result, she argues, that Settlers in Australia “had their awareness increased, but not about themselves. Instead, it is a one-way street, another example of the ‘Aboriginal people under glass’ phenomenon.”⁷² This dynamic also exists in Canada and is replicated in many “cross-cultural sensitivity training” programs that are offered to government workers, corporate employees and

⁷¹ Roger Epp, “We Are All Treaty People: History, Reconciliation and the “Settler Problem,” in *Dilemmas of Reconciliation: Cases and Concepts*, ed. Carol A.L. Prager and Trudy Govier (Waterloo, Ontario: Wilfred Laurier University Press, 2003), 228.

⁷² Val Napoleon, “Who Gets to Say What Happened? Reconciliation Issues for the Gitksan,” in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 183.

community institutions.

From this perspective, the lack of Settler critical self-reflexivity, our unwillingness to put forward our own historical and cultural understandings and experience constitute acts of violence, subtle and symbolic, but powerful nonetheless. Our silence is an act of power that results in a circumscribed “dialogue” with Indigenous peoples that is a major barrier to transforming conflicts. This “dialogue” is actually two monologues that are rooted in conflicting Indigenous-Settler visions of how to deal with conflict, restore and reconcile relationships. In this sense, the overarching discourse of reconciliation is paradoxical – the language of “healing and creating new dialogue and partnerships” does not match the substance of our silence (inaction) at the negotiating table. I take as a starting point that substantive social and political change happens only when there is a broader base of public support for moving governments, courts and institutions beyond the status quo of denying or silencing history. This requires a strong commitment to truth-telling on all sides, a commitment that is not evident in current Settler approaches to negotiation and reconciliation. If I seek to unsettle Settlers, myself and others, in ways that avoid these colonial traps, an epistemological lens that problematizes the Settler is most appropriate for this study.

The challenge now is to locate myself within an appropriate space/place of research. What Alfred proposes is a radical departure from strategies that call for working from *within* hegemonic structures to create change. In contrast, liberal theorists generally argue that we must work within existing structures in order to move beyond them. Canadian historical geographer Cole Harris, for example, says that “...there is no getting away from the challenge of thinking from within the structures and mentalities associated with colonialism towards ways of surpassing them.”⁷³ Yet thinking and acting from *outside* these colonial structures is precisely what Alfred suggests we must do. He

⁷³ Harris, *Making Native Space*, 297.

acknowledges that Indigenous peoples have been greatly impacted by colonialism and is critical of the actions of both Settlers and “tamed aboriginals” that support colonial structures and institutions. The reader will recall that his focus is not on how to participate in existing land claims, self-government and treaty processes. Rather he says, Indigenous peoples must first address the root of their dilemma – a spiritual and cultural crisis in which they have forgotten who they are as Onkwehonwe.⁷⁴

In Alfred’s vision, Indigenous peoples must therefore work outside existing colonial structures by drawing on their own distinct political philosophies, cultures and spirituality to practice freedom in ways that empower individuals personally and politically. He suggests that the non-indigenous must struggle, albeit in different ways with our colonial myths and history, decolonizing ourselves in ways that are congruent with the ethics and principles of moral justice. Just as Indigenous peoples must step away from the confines of existing political and legal attempts at reconciliation that are fundamentally assimilationist, so too must the non-indigenous who would be allies find our own ways to resist. Yet as Settlers, our sociopolitical structures and institutions and our own attitudes are bound up in colonialism in ways that limit our capacity to envision a truly decolonized relationship with Indigenous peoples. My own work experience has necessarily involved engaging from within hegemony, so how would I extricate myself from this reality and is it even possible for Settlers to do this? I had to consider where to situate my research along this continuum and whether there is anything of value to be learned from critiquing existing negotiation processes and the discourse of reconciliation despite the flaws that are now apparent to me.

Here I turned to scholar/practitioners who articulate the ethics, principles and methodologies of critical, Indigenous and anti-oppressive research. Leslie Brown and Karen Potts note the inherent problems associated with working from within research

⁷⁴ Alfred, *Wasase: indigenous pathways of action and freedom*, 22-33.

paradigms that reinforce and validate Western scientific methods. Nevertheless they locate their rethinking of the research process “within this problematic problem-solving structure – not to reinscribe the model but to demonstrate our epistemological assumption that we work from where we are, not from where we would rather be.”⁷⁵ In a similar vein, I must begin my research *from where I am* in my own theory and practice, with a view to casting a critical, anti-oppressive eye on Western history, law and ADR processes that currently define the reconciliation discourse of Settler society.

In developing a methodology for unsettling the Settler within, how do I ensure the credibility of the research? Writing about the challenges of being an anti-oppressive researcher, Brown and Potts remind us that in designing our research we must consider the criteria by which the quality of our research will be evaluated. They say that “(i)t is the operationalization of ‘quality’ that will make your research credible, publishable, actionable, and worth listening to. Without quality assurance strategies, research can be dismissed as an opinion essay with no relevance for being acted upon.”⁷⁶ One strategy for ensuring that this study is more than just an opinion piece is to link it to my lived experience as a valid source of data. My research concerns transforming and decolonizing, but these are not measurable outcomes. Rather they are ongoing, cyclical processes that I write from within even as I live them. As a non-indigenous woman, I am always a learner in Indigenous contexts. Writing from an anti-racist, feminist perspective, Mehmoona Moosa-Mitha describes the importance of situating oneself as learner:

The researcher holds the attitude of a learner, of one who is a “not-knower,” but, through the act of empathetic imagination and by possessing critical self-consciousness, comes to gain a sense of what the Other knows. The researcher is reflexive in her practice, whereby the knowledge of the subaltern or subjugated is

⁷⁵ Leslie Brown and Karen Potts, “Becoming an Anti-Oppressive Researcher,” in *Research as Resistance: Critical, Indigenous, & Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholar's Press/Women's Press, 2005), 264.

⁷⁶ *Ibid.*, 271.

used to reflect dominant practices and assumptions in which the researcher herself is complicit...anti-oppressive theorists ...make a connection between knowing and doing, and research as “praxis”...(k)nowledge, therefore, is not conceived of as neutral, nor is it abstract in nature.⁷⁷

In thinking about how best to accomplish this, it seems essential for me to incorporate my own decolonizing experience into the study as a way of mirroring and validating the personal and political transformative pedagogy I am proposing. Yet I am aware that injecting the personal voice into an academic study is fraught with difficulties that speak to our very reliance on Western research methodologies that work to exclude it. Here it is helpful to turn to feminist scholar Sally Kimpson’s work on the validity of using critical self-reflexive autobiographical narrative as a strategy for addressing the ethical, political and personal issues⁷⁸ that I struggle with in linking theory and practice to critique Settler society. Like Kimpson, I consider “using my own experience as the ground for my research practice...a deeply subversive and political move...”⁷⁹ that lends authenticity and credibility to my research. By describing and reflecting upon my own unsettling experiences of transformation and decolonization, I “walk my talk” by learning to listen, think and act in new ways not unilaterally, but in relationship with the circle of people, Indigenous and Settlers, who inhabit my world.

Another key aspect of locating myself within this unsettling transformative, decolonizing learning space/place concerns the making of space for Indigenous philosophies and knowledge systems. Here it is important to define what I mean by “making space.” Colonization involves the taking of space – geographic, but also

⁷⁷ Moosa-Mitha, "Situating Anti-Oppressive Theories within Critical and Difference-Centred Perspectives," 66-67.

⁷⁸ Sally A. Kimpson, "Stepping Off the Road: A Narrative (of) Inquiry," in *Research as Resistance: Critical, Indigenous, & Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholar's Press/Women's Press, 2005), 74-76.

⁷⁹ *Ibid.*, 92.

mythical, historical, cultural, narrative, legal, intellectual, and pedagogical. In doing so, Settlers have created barriers to justice, real peace and true reconciliation. Decolonization involves Settlers making space⁸⁰ through substantive restitution for the historical grievances of Indigenous peoples even as they are (re)taking space for themselves and their nations in what Alfred articulates as necessary acts of regeneration and resurgence.⁸¹ I am mindful that as a researcher, I must pay attention to the “politics of location and accountability” by acknowledging that attempts to make space for the Other can result in simply replicating colonial relations, not transforming them.⁸² In challenging the peacemaker myth and critiquing ADR-based negotiation models and the discourse of reconciliation, my research is congruent with the goals of critical social science as articulated by Strega. I intend to “uncover myths, reveal hidden truths...accurately describing reality, and then applying that accurate description to suggest or undertake action...(and in doing so)...challenge the claim that research can or should be value neutral.”⁸³ Therefore, the space I seek to make is not that of “accommodating difference” within existing negotiation models through the token inclusion of Indigenous ceremonies in conflict resolution and reconciliation processes. Rather it is about making visible the deep mythical roots of contemporary colonialism and Settler denial of a history of violence, that renders Indigenous history, diplomacy, law and peacemaking practices invisible. It is not about defining what Indigenous space should be, but rather a way of viewing with a self-critical eye, the ways in which Settler concepts of time and space

⁸⁰ I thank Dr. Leslie Brown for pointing out to me this concept of taking and making space. Personal Communication. September 16 2004. I also thank Dr. Maggie Hodgson for her wise insights, from an Indigenous perspective, on how this concept is applicable regarding the making of space within the context of residential schools.

⁸¹ Alfred, *Wasase: indigenous pathways of action and freedom*, 151-152.

⁸² Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 50-53, 136-139.

⁸³ Strega, "The View from the Poststructuralist Margins: Epistemology and Methodology Reconsidered," 208.

dominate the discourse.

Lederach notes that the fields of conflict resolution and peacebuilding are “time/space challenged” in that we focus on short term problem-solving and “pragmatic” solutions to conflicts.⁸⁴ In contrast, Indigenous concepts of time and space encompass “the heart of the moral imagination...(that requires us to) recognize and build imaginative narrative that has the capacity to link the past and the future rather than force a false choice between them.” This long view of history “goes beyond the more instrumentalist view of ‘storytelling’ as a stage of problem solving in mediation.”⁸⁵ Indigenous scholars have written extensively about the differences between Western and Indigenous scientific traditions and intellectual beliefs about time and space. They argue that Western notions of time and space with regard to history and the linear notion of “progress” are bound up in notions of cultural superiority.⁸⁶ Blackfoot scholar Leroy Little Bear says, for example, that in Indigenous philosophy, space is linked with time through the natural cycle of events that occur on the land, and that:

time just is...Plains Indians are not incapable of talking or thinking about the distant future or past, but it is always done with the “constant flux” in mind. One of the implications arising out of this notion of time is that the ancestors are always only two days away. The stories, the songs, the ceremonies, and the teachings are never more than two days old in the memory of the people. This is quite different than Pierre Elliot Trudeau’s suggestion, typical of the Euro-Canadian worldview, to the effect that “these treaties are not worth the paper they

⁸⁴ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 146.

⁸⁵ *Ibid.*, 147.

⁸⁶ See for example, Vine Deloria Jr., *Red Earth, White Lies: Native Americans and the Myth of Scientific Fact* (Golden, Colorado: Fulcrum Publishing, 1997); Deloria Jr. and Wildcat, *Power and Place: Indian Education in America*; Leroy Little Bear, “Aboriginal Paradigms: Implications for Relationships to Land and Treaty Making,” in *Advancing Aboriginal Claims: Visions, Strategies, Directions*, ed. Kerry Wilkins (Saskatoon, Sask: Purich Publishing Ltd., 2004); Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 50-57.

are written on.” In other words, what is past is past; it is gone forever. The only thing that matters is the future.⁸⁷

We begin to see how these fundamentally different philosophies would play out in negotiations concerning Indigenous-Settler conflicts and historical claims. Viewed from an Indigenous perspective, Western approaches to addressing conflicts rooted in history are deeply flawed because they have never recognized what Indigenous peoples have always known – that the past, present and future are not linear, but co-exist and that as Alfred says, “(s)pace must be created—intellectually and socially—for peace to be achieved.”⁸⁸ The creating of this intellectual and social space, he suggests, will be unsettling, but is the necessary prerequisite to real reconciliation between Indigenous peoples and Settlers. Lederach notes that Indigenous peoples all over the world have most challenged his own Western constructs of time and space – their insights compelling him to question how he understood history in relation to conflict and its transformation.⁸⁹ History is alive, he says, and its wounds require our recognition and attention. Thus, in this study, I take the long view of history that insists on the making of space for Indigenous history, law, diplomacy and peacemaking practices. From this perspective, the historical grievances of Indigenous peoples in Canada can be understood as narratives that have been disrupted by Settlers – stories that we must now address together, using deep reflection, imagination and powerful action in struggles that are counter-hegemonic.

⁸⁷ Little Bear, "Aboriginal Paradigms: Implications for Relationships to Land and Treaty Making," 29.

⁸⁸ Alfred, *Wasase: indigenous pathways of action and freedom*, 266.

⁸⁹ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 139-140.

Theoretical Approaches: From Liberal “Informing” to Critical, Indigenous & Anti-oppressive “Transforming”

The non-indigenous must work to transcend colonialism from within our own political, cultural and intellectual frameworks. This involves counter-hegemonic struggle - resistance - as a key aspect of problematizing Settler society. I must therefore locate my study within a theoretical framework that facilitates unsettling. Where does critical theory that challenges liberalism fit within this context? In their critique of the myth of liberal individualism as it relates to concepts of difference, Boler and Zembylas say that “no one escapes hegemony.”⁹⁰ In fact, they argue that neither members from dominant culture nor marginalized groups in society *escape* hegemony because we all “internalize dominant cultural values,” and it is our willingness to struggle that is counter-hegemonic.⁹¹ Indigenous peoples will do this, Alfred suggests, by drawing on their own political philosophies, knowledge systems, spiritual, and cultural values. He rejects liberal notions of reconciliation that are simply “false decolonization processes,” and is highly critical of liberal theory which has tried to demonstrate a capacity to accommodate difference to little effect.⁹² But given that Canadian history, law and ADR are grounded in Western cultural, legal and political thought, it is important for the purposes of this study to consider how liberal theory might *inform*, even if it cannot *transform*, the discourse of reconciliation as one pathway to decolonizing Canada. In Chapter Four, I explore in more detail how liberal theories of history, law and ADR are implicated in the negotiation processes we design to address Indigenous-Settler conflicts. Here I provide the contextual background as part of mapping my research rationale.

⁹⁰ Boler and Zembylas, “Discomforting Truths: The Emotional Terrain of Understanding Difference,” 115.

⁹¹ Ibid.

⁹² Alfred, *Wasase: indigenous pathways of action and freedom*, 111-112.

Liberal theorists seek to understand the relationship between liberal political theory and Indigenous rights. They suggest that when “indigenous peoples’ claims to prior and continued sovereignty⁹³ over their territories question the source and legitimacy of state authority...the issue is not simply a matter of how a state came to be, but of how it can become ‘morally rehabilitated’ even if it began in an illegitimate fashion.”⁹⁴ Thus, nation states, including Canada, the United States, Australia and New Zealand, have devised various political and legal strategies to deal with the question of their political legitimacy. With this in mind, Barkan proposes a new conflict theory of restitution which he envisions as a “political dialogue amongst cultures” that facilitates a “negotiated justice” between colonizers and the colonized.⁹⁵ He identifies making restitution as part of a global trend towards a new international politics of morality and justice in which perpetrators and victims negotiate over past wrongs in ways that transform both. He acknowledges that on one level, perpetrators’ motives are both legal and monetary. But he argues that as liberalism emerges as the “predominate global ideology,” utilitarian liberal values and concepts of individual rights and equality fail to deal adequately with cultural difference and group rights. Barkan says that the scope of liberalism has been expanded accordingly to be more inclusive. Thus neo-Enlightenment liberal principles can more readily accommodate cultural diversity and group human rights. This constitutes, he concludes, a significant driving force behind emerging global politics of morality and justice.⁹⁶

⁹³ I note that the concept of “sovereignty” itself as applied to Indigenous nationhood, is contested. See Taiaiake Alfred, *Peace, Power, Righteousness: an indigenous manifesto* (Don Mills: Oxford University Press, 1999), 55-69.

⁹⁴ Duncan Ivison, Paul Patton, and Will Sanders, "Introduction," in *Political Theory and the Rights of Indigenous Peoples*, ed. Duncan Ivison, Paul Patton, and Will Sanders (New York: Cambridge University Press, 2000), 3.

⁹⁵ Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustice*, 321.

⁹⁶ *Ibid.*, 309-311.

Within the Canadian context, Tully explores how Western political theory and language, expressed in law, policy and the academy can serve to legitimate the colonization of Indigenous peoples or, conversely, be used as a liberatory tool by Indigenous peoples to resist colonial governance and jurisdictional authority over their territories and persons. In liberal democracies such as Canada, the legitimization of systems of internal colonization has deep roots in liberal theory. Governments employ a range of techniques and strategies to either assimilate or accommodate Indigenous peoples within Canadian sovereignty. Tully notes that although the courts and modern treaty processes recognize or accommodate Aboriginal and treaty rights to varying degrees, the “legitimacy” of the state is ultimately affirmed and reinforced.⁹⁷ Thus, he says, we have attempted to address Indigenous-Settler conflicts in various forms of “conflict and dispute *irresolution*.”⁹⁸ Critical theory and reflexive thought is used as a form of resistance by western critical theorists and “indigenous word warriors”⁹⁹ who draw on Indigenous political thought to challenge mainstream western political philosophy. Tully notes that this is best done in intercultural dialogues that “enable Westerners to see their conventional horizon as a limit and the dialogues are themselves intimations of and indispensable groundwork for a future non-colonial relationship...”¹⁰⁰ Much of his work has focused on these issues within the context of the Canadian constitution and the making of space for Indigenous peoples at the constitutional table.

⁹⁷ James Tully, “The Struggles of Indigenous Peoples for and of Freedom,” in *Political Theory and the Rights of Indigenous Peoples*, ed. Duncan Ivison, Paul Patton, and Will Sanders (Cambridge: Cambridge University Press, 2000), 36-50. See also Alfred, *Peace, Power, Righteousness: an indigenous manifesto*.

⁹⁸ *Ibid.*, 43. (Emphasis mine).

⁹⁹ Teme-Augama Anisnabe philosopher Dale Turner characterizes Indigenous scholars who engage liberal intellectual thought, drawing on Indigenous philosophy, as “indigenous word warriors.” See Dale Turner, “Vision: Towards an Understanding of Aboriginal Sovereignty,” in *Canadian Political Philosophy: Contemporary Reflections*, ed. Ronald Beiner and Wayne Norman (Oxford: Oxford University Press, 2000).

¹⁰⁰ Tully, “The Struggles of Indigenous Peoples for and of Freedom,” 51.

He envisions the constitution as an intercultural dialogue in which Indigenous peoples and Settlers can negotiate our relationship according to three constitutional conventions – mutual recognition, consent and continuity.¹⁰¹ Observing these conventions is what makes the dialogues just, and he finds their roots in both liberalism and Indigenous political traditions.¹⁰²

In summary, Barkan looks at negotiating restitution, Tully at negotiating constitutional relations, and both see these as grounded in local, historically specific circumstances and political identities, not in meta-theory. Barkan envisions restitution “not as a classic theory of justice, but as a method of conflict resolution, a theory embedded in politics.”¹⁰³ Tully’s constitutionalism “does not recommend itself to the competing schools of theory... (t)heir aim is to fit the constitution to the shape of their comprehensive theories of justice, whereas mine is to submit their partial claims to just negotiation and mediation.”¹⁰⁴ Barkan and Tully are thus able to make important connections between liberalism, political theory and negotiation practice through dialogue to demonstrate how liberal democracies attempt to accommodate difference with regard to Indigenous peoples. Barkan reminds us however, that restitution is not a panacea because it does not necessarily address the ongoing legacies of historical injustices that are manifested in contemporary social injustice. There is a danger, he says, that “restitution is an escape into ‘healing’ the past because of ineptitude and incapacity to deal with the present... (and that)... it might succeed precisely because it enables the

¹⁰¹ Ibid., 209.

¹⁰² On the links between liberal and Indigenous democratic political traditions, see also Iris Marion Young, “Hybrid Democracy: Iroquois Federalism and the Postcolonial Project,” in *Political Theory and the Rights of Indigenous Peoples*, ed. Duncan Ivison, Paul Patton, and Will Sanders (Cambridge: Cambridge University Press, 2000).

¹⁰³ Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustice*, 347.

¹⁰⁴ James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*, 2nd ed. (Cambridge: Cambridge University Press, 1997), 209.

appearance of moral action while being burdened only by minimal cost.”¹⁰⁵ This sounds dangerously close to Yamamoto’s cheap reconciliation and Alfred’s false decolonization. Barkan and Tully make strong arguments for the importance of negotiating our political relationship using *dialogue* as a means for oppressed groups to achieve justice. Barkan argues that “[r]estitution is... not merely a moral idea but a political and social solution...[that] results from emphasizing historical identity and morality as an international and political question. The identity of the group, or of the nation, is manifested in its historical legacy.”¹⁰⁶ This is why “history matters” in our dialogues about Indigenous-Settler conflicts, but equally important are culture and power relations.

Keeping in mind that liberal theory/practice will always ultimately work to maintain the status quo, it is useful to turn to the works of scholars who address issues of power and culture in deliberative dialogue. Ultimately, it remains to be seen whether “new self-reflective institutions...the public spheres created to innovate formulas of both inclusion and autonomy are up to the task...or whether current deliberations will only usher in new forms of strategic domination.”¹⁰⁷ In a critique of deliberative democracy theory that fails to take culture and power into account in public dialogues, philosopher Iris Marion Young proposes instead a communicative democracy model that attends more closely to unequal power relations and cultural differences. She argues that “[t]he model of deliberative democracy tends to assume that deliberation is both culturally neutral and universal,”¹⁰⁸ thereby excluding the voices of those who are oppressed and marginalized. Young suggests that we must make space in deliberative dialogue for “greeting, rhetoric

¹⁰⁵ Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustice*, 345.

¹⁰⁶ *Ibid.*, 345.

¹⁰⁷ Ratner, Carroll, and Woolford, “Wealth of Nations: Aboriginal Treaty Making in the Era of Globalization,” 233.

¹⁰⁸ Iris Marion Young, *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton, NJ: Princeton University Press, 1997), 63.

and storytelling.”¹⁰⁹ Greeting, she explains, involves nurturing relationships by engaging in rituals of coming together that build trust and respect between us. Rhetoric invites emotional expression and the use of metaphor and symbol into dialogue that if modeled only on Western deliberative practices, privileges argument expressed in rational, neutral language.¹¹⁰ Storytelling can work to balance power relations “[b]ecause everyone has stories to tell, with different styles and meanings, and...each can tell her story with equal authority.”¹¹¹ In ways that rational argument cannot, stories help us to understand and empathize with another’s worldview, values and experiences even though we do not share them. In *The Deliberative Practitioner: Encouraging Participatory Planning Processes*, John Forester goes a step further, drawing on deliberative democratic theory and linking it to actual practice to “develop a transformative theory of social learning that explores not only how our arguments change in dialogues but how we change as well...[in these] political ritual performances [that] connect... past memory and obligation to future strategy and possibility.”¹¹² He suggests that stories and rituals help us to attend to power imbalances, cultural differences and traumatic histories in ways that do not require participants to “leave their pain at the door.”¹¹³ Together these works deepened my understanding about the importance of dialogue in developing a pedagogical strategy for unsettling the Settler within.

¹⁰⁹ Ibid., 69.

¹¹⁰ Ibid., 70-71.

¹¹¹ Ibid., 73.

¹¹² John Forester, *The Deliberative Practitioner: Encouraging Participatory Planning Processes* (Cambridge, Mass.: The MIT Press, 1999), 130.

¹¹³ Ibid., See especially, Chapter 7.

Towards a Critical Pedagogical Strategy for Unsettling the Settler Within

Building on the insights of Tully, Barkan, Young and Forester, I want to explore in more depth how public dialogue processes might unsettle Settlers, moving us not just to *think and talk* but to *act* differently in relationships with Indigenous peoples. Accordingly, my theoretical foundation and pedagogical strategy must have transformative potential that could inform practical action related to addressing historical conflict. This is congruent with critical approaches to research. Critical research enables the researcher studying conflict to engage in the transformative evaluation of data by situating it within a historical, structural and material context to challenge normative and universalist claims about the nature of conflict in social and power relations. Writing about qualitative research methodology, Lawrence W. Neuman suggests that historical-comparative research is well- designed to address “big picture” questions in a way that “combines a sensitivity to specific historical or cultural contexts with theoretical considerations.”¹¹⁴ Drawing on diverse data sources, the critical researcher using a historical-comparative approach can reinterpret data to challenge old explanations and develop new concepts and theory. A critical approach is well-suited to those aspects of my research that involve analyzing, synthesizing and critiquing a large body of multidisciplinary literature and other documentary materials that form an integral part of the research. This approach constitutes another quality assurance strategy, in addition to the data gathered based on my lived experience which will help strengthen the quality and credibility of the study.

Neuman also notes that critical social science research is particularly associated with conflict theory because it “focuses on change and conflict, especially paradoxes or conflicts that are inherent in the very organization of social relations. Such paradoxes or

¹¹⁴ William Lawrence Neuman, *Social Research Methods: Qualitative and Quantitative Approaches*, 3rd ed. (Boston, MA: Allyn and Bacon, 1997), 388.

inner conflicts reveal much about the true nature of social reality.”¹¹⁵ A critical theory approach enables researchers to engage in social and political critique that is grounded in historical relations, structures and institutions. One analyzes conflict as a dialectical process and assumes that research has transformative potential and practical applicability in the real world. Therefore, according to Henry Giroux, the critical researcher’s inquiry should “...uncover and excavate those forms of historical and subjugated knowledges that point to experiences of suffering, conflict, and collective struggle...to link the notion of historical understanding to elements of critique and hope.”¹¹⁶ I began to see how critical inquiry could inform my critique of ADR/negotiation models and reconciliation discourse as representative of strategies that Tully identifies as conflict and dispute *irresolution*. At the same time, it could help me to explore Alfred’s transformative conflict approach – creative confrontation and conflict with a positive purpose. What do conflict theorists say about conflict or dispute resolution versus conflict transformation?

Within the conflict studies field, there has been a growing distinction between conflict “resolution” and conflict “transformation.” Resolution suggests that conflicts are finite and can be addressed by uncovering common interests and problem-solving together. There is much emphasis placed on learning techniques such as “active listening” and in building intercultural sensitivity. Conflict transformation, on the other hand, focuses on deeper relational aspects of conflict. Within this context, the building and sustaining of relationships over time is central. In 1994, conflict transformation scholar/practitioners Robert Bush and Joseph Folger published a critique of the interest-

¹¹⁵ W. Lawrence Neuman, *Social Research Methods: Qualitative and Quantitative Approaches*, 2nd ed. (Boston, MA: Allyn and Bacon, 1994), 67.

¹¹⁶ H. Giroux. *Schooling and the struggle for public life: Critical pedagogy in the modern age*. Minneapolis: University of Minnesota Press. 1988, quoted in Egon G. Guba and Yvonna S. Lincoln, "Competing Paradigms in Qualitative Research," in *The Landscape of Qualitative Research: Theories and Issues*, ed. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oaks, Calif: Sage Publications, 1998), 206.

based or problem-solving method of negotiation and mediation that was popularized by Roger Fisher and William Ury in *Getting to Yes: Negotiating Agreement Without Giving In*.¹¹⁷ Fisher and Ury's method was subsequently used extensively across North America to train negotiators and mediators to deal with conflicts more constructively by getting parties to focus on identifying their respective underlying needs and interests in order to reach agreements that would best accommodate them. *Getting to Yes* became the "bible" of the ADR movement in North America which emerged in the 1970's and 80's as a less adversarial, cost-effective, and timely alternative to litigation. ADR programs began to spring up in law schools in the United States and Canada as lawyers became interested in using dispute resolution techniques and methods in their practice. At the same time, many government negotiators and policymakers involved in treaty negotiations and historical claims were trained in this method. But Bush and Folger saw this "problem-solving" method which emphasizes the "neutrality" of the mediator as highly problematic. Mediators they argued, were anything but neutral in the process, and in fact were highly directive in steering parties towards "mutually acceptable agreements." Instead of focusing on "solutions" or "resolutions" to conflict situations, they proposed transforming conflicts in ways that support the moral development of people through empowerment and recognition.¹¹⁸ In this sense, they see conflicts "...not as problems at all, but as

¹¹⁷ Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, 2nd ed. (New York: Penguin Books, 1991).

¹¹⁸ Robert A. Bush and J. Folger, *The Promise of Mediation: Responding to Conflict through Empowerment and Recognition* (San Francisco: Jossey-Bass, 1994). John Paul Lederach is also a major influence in conflict transformation theory and practice. See John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: United States Institute of Peace Press, 1997); John Paul Lederach, "Five Qualities of Practice in Support of Reconciliation Processes," in *Forgiveness and Reconciliation: Religion, Public Policy and Conflict Transformation*, ed. Raymond G. Helmick and Rodney L. Petersen (Philadelphia: Templeton Foundation Press, 2001); John Paul Lederach, *Preparing for Peace: Conflict Transformation across Cultures* (Syracuse, New York: Syracuse University Press, 1995); John Paul Lederach and Janice Moomaw Jenner, eds., *A Handbook of International Peacebuilding: Into the Eye of the Storm* (San Francisco: Jossey-Bass, 2002).

opportunities for moral growth and transformation.”¹¹⁹ Bush and Folger lamented what they saw as the loss of conflict resolution’s social justice grassroots values, arguing that the ADR movement had become instrumentalist and utilitarian.¹²⁰

As the field of conflict resolution has grown, scholar/practitioners have developed other approaches to addressing conflict, particularly narrative methods that focus on the co-creation of stories in settling conflicts.¹²¹ Many other conflict scholars have added their voices to the critique of ADR neutrality models, particularly from feminist and intercultural perspectives.¹²² In 2004, Bernard Mayer, a well known North American conflict resolution scholar/practitioner wrote *Beyond Neutrality: Confronting the Crisis in Conflict Resolution*. He challenges those who work in the conflict resolution field to “think about the social role that conflict resolution as a field plays in society and the complicated interplay between conflict resolution as an avenue of social change and as a means of social control.”¹²³ He proposes that practitioners should shift from practicing conflict resolution to conflict engagement, from being “neutral” conflict resolvers to taking on multiple roles as “ally, advocate, organizer, strategist and coach.”¹²⁴ Most

¹¹⁹ Bush and Folger, *The Promise of Mediation: Responding to Conflict through Empowerment and Recognition*.

¹²⁰ Ibid.

¹²¹ Cobb, "A Narrative Perspective on Mediation: Towards the Materialization of the "Storytelling" Metaphor."; Winslade and Monk, *Narrative Mediation: A New Approach to Conflict Resolution*. For an overview on conflict resolution versus transformation, see Christopher Mitchell, "Beyond Resolution: What Does Conflict Transformation Actually Transform?" *Peace and Conflict Studies* 9, no. 1 (2002).

¹²² See for example, D.M Kolb and L.L. Putnam, "Through the Looking Glass: Negotiation Theory Refracted through the Lens of Gender," in *Workplace Dispute Resolution: Directions for the Twenty-First Century*, ed. Sandra E. Gleason (East Lansing, Michigan: Michigan State University, 1997); Kevin Avruch, Peter W. Black, and Joseph A. Scimecca, eds., *Conflict Resolution: Cross-Cultural Perspectives* (Westport, Connecticut: Greenwood Press, 1991).

¹²³ Bernard S. Mayer, *Beyond Neutrality: Confronting the Crisis in Conflict Resolution* (San Francisco: Jossey-Bass, 2004), 149-150.

¹²⁴ Ibid., 222-237.

importantly, conflict studies scholar Christopher Mitchell observes that conflict transformation is rooted in a more liberatory social justice philosophy. He notes that whereas conflict resolution is inherently conservative, conflict transformation addresses the social and structural roots of conflict. According to Mitchell, "(t)he transformational approach...begins by assuming there is nothing sacred about the status quo...the process starts with an analysis and critique of the existing system and an assumption that it will be necessary to create new systems, structures and relationships."¹²⁵

Finally, David Dyck, a conflict studies scholar/practitioner, also challenges the belief that mediator/negotiators are neutral third parties. He argues that "it is the practitioners of this form of mediation who are most in need of deeper reflection on the connections between their craft and the work of nonviolent advocacy activism."¹²⁶ From an activist's perspective, he says, mediators fail to address structural conflict. Instead, they "naively assume that sharing feelings brings empowerment...(they) are largely Euro-American, middle-class professionals with destructive notions of 'neutrality' that usually serve the interests of the powerful and reduce 'injustices' to problems of communication."¹²⁷ He also suggests that mediation training is too narrow and should "emphasize the social and historical context of conflict and power analysis."¹²⁸ Within the context of Indigenous-Settler conflicts, this is a powerful indictment of ADR models based on notions of neutrality - both the processes themselves and the conflict resolution field which has been instrumental in influencing the design and implementation of public policy negotiations across North America.

¹²⁵ Mitchell, "Beyond Resolution: What Does Conflict Transformation Actually Transform?" 20.

¹²⁶ David Dyck, "The Mediator as Nonviolent Advocate: Revisiting the Question of Mediator Neutrality," *Mediation Quarterly* 18, no. 2 (2000), 131.

¹²⁷ *Ibid.*, 131-132.

¹²⁸ *Ibid.*, 138.

In this study, I critique the myth, philosophy and practice of “neutral conflict resolution” to argue for strengthening the connections between conflict transformation scholars/practitioners and activists engaged in the work of decolonization – those who would be allies and advocates. Conflict transformation has an emancipatory potential to address – through critical inquiry and social action – the structural inequities, systemic racism and oppression that are the hallmarks of colonialism. My explorations of critical research and conflict transformation seemed to be pointing me in the right direction theoretically towards transformative pathways for unsettling the Settler within. But I also wanted to ground the study in my practice with a particular focus on the role of myth, ritual and history in Indigenous-Settler conflict and reconciliation discourse. The challenge is to link historical consciousness to elements of critique and hope, as suggested by Giroux, in ways that are unsettling for Settlers. Much of what I learn in my own decolonizing process comes from my work on the ground. It also stems from my experience doing education/training workshops and presentations on new approaches in the field of conflict resolution with respect to Indigenous-Settler conflict. I know that learning/teaching environments can create powerful transformative possibilities. I want the research to have a practical component that will be useful and relevant for other non-indigenous people, both the broader public and those who work with and for Indigenous peoples in negotiation and reconciliation contexts. I turned to Indigenous and Western scholars who focus on theories of transformation, critical pedagogy, anti-racist and anti-oppressive research related to adult education, both formal and informal, in a variety of contexts – academic, organizational and community-based.

Paolo Friere’s work has been deeply influential and his pedagogical praxis is developed through a process of conscientization in which the oppressed (and the oppressor) become aware of oppression through critical self-reflection and action that is

rooted in personal and political change. In *Pedagogy of the Oppressed*, published in 1970, Friere's vision of education is based on the belief that education is not simply the *transfer* of knowledge, but a deep transformative learning that empowers people to make change in the world through critical dialogue and the mutual creation of knowledge. He understood that even if oppressors as individuals become aware of their oppressiveness, this does not necessarily lead to social and political change. Rather Friere says that confronting this reality is more likely to lead to paternalism that is a rationalization of guilt. "Rationalizing his guilt through paternalistic treatment of the oppressed, all the while holding them fast in a position of dependence, will not do."¹²⁹ The oppressor may recognize the need for "critical intervention" but at the same time, "...knows full well that this intervention would not be to his interest."¹³⁰ Because this is so, the oppressor is more likely to work to maintain the status quo in ways that are antithetical to decolonization – ways that I argue are evident in the continuing systemic violence and racism that characterizes Indigenous-Settler relations.

In *Pedagogy of Hope: Reliving Pedagogy of the Oppressed*, published in 1995, Friere identifies the importance of linking struggle and hope in spite of the seeming hopelessness of our situation.¹³¹ He does not write of an idealistic, naïve hope that is actually "an excellent route to hopelessness, pessimism and fatalism," but rather a "critical hope" that is rooted in struggles for freedom. In this sense, he says that "hope is an ontological need...(and)...(t)o attempt to do without hope, which is based on the need for truth as an ethical quality of the struggle, is tantamount to denying that struggle one of

¹²⁹ Paulo Friere, *Pedagogy of the Oppressed* (New York: The Continuum Publishing Company, 1970), 31.

¹³⁰ *Ibid.*, 34.

¹³¹ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: The Continuum Publishing Company, 1995), 9.

its mainstays.”¹³² When Settlers confront our own role in the dysfunctional relationship that characterizes colonialism, we can become overwhelmed with guilt, accompanied by a strong sense of hopelessness. Transformative educator Daniel Schugurensky says that we must recognize that individual critical reflection alone “is not only unlikely to lead to transformative social action, but in some cases it may even lead to the opposite situation, which is cynicism, paralysis, and a general feeling of helplessness.”¹³³ He explains that as we become “more aware of the structures of domination and the role of ...institutions in reinforcing them...in the absence of a coherent social movement to promote an alternative...we fall into a state of paralysis, pessimism, and cynicism.” He argues therefore that transformative learning can only occur when “critical reflection and social action are part of the same process.”¹³⁴ Indigenous peoples, as Alfred suggests, can turn to their own philosophical, cultural and spiritual knowledge for guidance on transformative pathways to decolonization. The non-indigenous must become more critically self-reflective, developing the capacity to question our own philosophical, legal and cultural paradigms that keep us locked in an ongoing colonial relationship with Indigenous peoples. And this requires us to delve more deeply into the colonial myths and attitudes that permeate Settler society. Yet it is our very guilt and denial that paralyzes us into inaction, so we need to develop personal and political strategies to counteract this. Friere’s critical hope is essential because it is linked to our need to engage in truth-telling as part of an ethical, moral response to the historical and contemporary injustices that we have perpetrated against Indigenous peoples. Maintaining critical hope reinforces our

¹³² Ibid., 8.

¹³³ Daniel Schugurensky, "Transformative Learning and Transformative Politics: The Pedagogical Dimension of Participatory Democracy and Social Action," in *Expanding the Boundaries of Transformative Learning: Essays on Theory and Praxis*, ed. Edmund V. O'Sullivan, Amish Morrell, and Mary Ann O'Connor (New York: Palgrave, 2002), 62.

¹³⁴ Ibid., 63.

capacity to understand that while we cannot escape our past, neither are we held prisoner by it.¹³⁵ Here it is useful to look at the work of critical race scholar/practitioners.

In *Teaching Community: A Pedagogy of Hope*, Black American feminist scholar/practitioner, bell hooks, builds on Friere's work to write with passion and warmth from an anti-racist standpoint. She sees a transformative potential for White people who choose to resist White privilege and racism through critical reflection and social action. She reminds us that we will always be unlearning racism in our homes, schools, workplaces and communities, and that in doing so we will inevitably make mistakes. What makes the difference, she says, is a long term commitment to anti-racism that makes us willing to face our mistakes and take the actions necessary to make amends.¹³⁶ She argues that racism is a choice, that to choose to be anti-racist is a moral choice, and that to assume that people cannot change simply reinforces White supremacy. But she notes that "we are called on to choose again and again where we stand on the issue of racism at different moments in our lives."¹³⁷ This hearkens back to Alfred's observation that we must counteract colonialism in our everyday lives. Friere observes that while the dominant class as a class will never act "magnanimously" towards the oppressed, it is possible for individuals within the dominant class to do so.¹³⁸ So he sees potential for the

¹³⁵ Carlos Tejeda, Manuel Espinoza, and Kris Gutierrez, "Toward a Decolonizing Pedagogy: Social Justice Reconsidered," in *Pedagogies of Difference: Rethinking Education for Social Change*, ed. Peter Trifonas (New York: RoutledgeFalmer, 2003), 16-17. The authors argue that "Marx and Engels do not see men and women making history free from the social condition inherited from their past, but neither do they see that social condition absolutely determining the history they can make. While the past weighs heavily on the present, it does not preclude men and women from radically altering the social existence imposed by their past."

¹³⁶ bell hooks, *Teaching Community: A Pedagogy of Hope* (New York: Routledge, 2003), 61. Although as a feminist, hooks critiques the sexism in Friere's work, she nevertheless concludes that his liberatory theory and pedagogical stance speaks powerfully to decolonization and anti-racism. See bell hooks, *Teaching to Transgress: Education as the Practice of Freedom* (New York and London: Routledge, 1994), 45-58.

¹³⁷ hooks, *Teaching Community: A Pedagogy of Hope*, 56.

¹³⁸ Friere, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed*, 196.

individual oppressor to choose to change, even as the oppressed reclaim their power and identity. This must be done together by engaging in critical dialogue of hope.

A learning process might appear whereby the powerful would learn that their privileges, such as that of exploiting the weak, prohibiting the weak from being, denying them hope, are immoral, and as such need to be eradicated. It might be a learning process, at the same time, for the crushed, the forbidden-to-be, the rejected, that, through serious, just, determined, untiring struggle, it is possible to remake the world... And finally, it may be learned that, in a new democratic process, it is possible to expand the space for pacts between the classes, and gradually consolidate a dialogue among the different – in other words, gradually to deepen radical positions...¹³⁹

Here Friere's recognition of the complexity of relations that exists within the binary opposites of oppressor/oppressed within classes is also applicable within the context of decolonization. Carlos Tejeda, Manuel Espinoza and Kris Gutierrez point out that in critiquing the forces of colonialism one cannot treat the dominant Anglo-European population as a monolithic group who are all equally complicit in maintaining the social, structural and economic inequities of colonialism. Nor have all benefited equally from the spoils of colonialism if we take into account class, gender and socioeconomic differences. Like Freire, they draw on Marxian historical materialism to argue that "the transformative potential of human praxis" enables us to change our social condition.¹⁴⁰

From an Indigenous perspective, Alfred also distinguishes amongst Settlers, pointing out the need to "develop appropriate strategies of contention for each of the adversaries and enemies."¹⁴¹ He says that while we cannot hold those who are ignorant accountable to the same degree as those whose actively participate in perpetuating colonialism, "[w]hat marks a person as guilty is taking part in territorial dispossession,

¹³⁹ Ibid., 198.

¹⁴⁰ Tejeda, Espinoza, and Gutierrez, "Toward a Decolonizing Pedagogy: Social Justice Reconsidered." 16.

¹⁴¹ Alfred, *Wasase: indigenous pathways of action and freedom*, 105.

the political denial of Onkwehonwe existences, racialized violence and coercion, cultural disruption, and economic exploitation.”¹⁴² Alfred asks “So who are our allies then? Who are those non-indigenous people who could become part of the network of indigenous resurgences?”¹⁴³ He suggests that the answer to that question lies within Settlers themselves, and that we need to develop our own strategies to counteract the pervasive racism and violence within our attitudes and actions towards Indigenous peoples. Here I began to make some powerful connections between insurgent non-indigenous educators/activists and Settlers who *want* to become unsettled, using awareness, critical reflection and action to engage other Settlers who are enemies and adversaries in decolonization, social justice and peace. But, how do we create critical dialogues with Indigenous peoples in ways that make space for Indigenous history, diplomacy, law and peacemaking practices? How do conflict scholar/practitioners address issues of culture in conflict?

Kevin Avruch and Peter W. Black raise important questions about how conflict resolution scholar/practitioners understand culture and conflict. They reject universal, superficial explanations of culture and conflict that risk reifying culture, stereotyping people and making the dangerous assumption that culture is merely custom or tradition that we should “learn” about.¹⁴⁴ From their perspective developing “culture-as-consciousness” is to ask “...what is the local ‘common sense’ about conflict?”¹⁴⁵ Building on everyday understandings and local knowledge of conflict empowers people to act. Conflict education or training then “validates the knowledge and resources people

¹⁴² Ibid., 103.

¹⁴³ Ibid., 235.

¹⁴⁴ Kevin Avruch and Peter W. Black, "The Culture Question and Conflict Resolution," *Peace & Change* 16, No 1, no. January (1991), 22-24.

¹⁴⁵ Ibid., 31.

have available in that context, as opposed to building an educational process that circumvents their context and experience.”¹⁴⁶ Lederach develops these concepts more fully with regard to conflict transformation in intercultural contexts. In doing so, he is deeply influenced by Friere’s philosophy and critical pedagogy.

In *Preparing for Peace: Conflict Transformation Across Cultures*, Lederach argues that training for peacebuilding in communities and nations must integrate local or indigenous cultural knowledge, expertise and practice from within the community rather than prescriptively imposing external Western models for dealing with conflict. Prescriptive training, he says, emphasizes the transfer of knowledge and skills by “culturally neutral” conflict resolution “experts” who impart notions of conflict resolution that are assumed to be universal, but which in fact are culturally laden with Western values. Lederach argues that such knowledge transfer may in fact be highly inappropriate, even destructive, and disempowering. In the prescriptive model, culture becomes a matter of learning techniques to acquire “cultural sensitivity” in intercultural groups. Drawing on social constructivist¹⁴⁷ theory about how we construct social meaning and the role of knowledge and culture in relation to conflict, Lederach believes that “conflict is a socially constructed cultural event...and that a person’s common sense and accumulated experience and knowledge are the primary basis of how they create, understand and respond to conflict.”¹⁴⁸ Accordingly, he says that using an elicitive approach in peacebuilding empowers individuals to draw on their own cultural and historical frameworks to develop strategies to transform conflict. Culture in this sense is a “fountain

¹⁴⁶ Ibid., 27.

¹⁴⁷ Lederach, *Preparing for Peace: Conflict Transformation across Cultures*, 8. Lederach defines the social constructivist view of conflict as “the fundamental idea that social conflict emerges and develops on the basis of the meaning and interpretation people involved, attach to actions and events. Social meaning is lodged in the accumulated knowledge (of) a person’s ‘bank of knowledge.’ From this starting point, conflict is connected to meaning, meaning to knowledge, and knowledge is rooted in culture.”

¹⁴⁸ Ibid., 9.

and seedbed” in which the conflict transformation or reconciliation process is rooted.¹⁴⁹ An elicitive approach, Lederach says, “...invites us to move away from the residue of imperialism embedded in the prescriptive framework...and toward a relationship of social and cultural empowerment based on mutuality and respect.”¹⁵⁰ So an elicitive approach is congruent with the making of space for Indigenous history, diplomacy, law and peacemaking practices in conflict transformation and reconciliation processes.

At the same time, I am cognizant of Tuhiwai Smith’s observation that while Friirian approaches are highly influential as a counter to positivist research, what is absent in the discussion of the “emancipatory paradigm of postpositivism” is any recognition of “indigenous approaches to research (or)...the possibility that approaches can be generated from very different value systems and world views.”¹⁵¹ Ontologically, my premise is that intercultural conflicts between Indigenous peoples and Settlers are rooted in political, socioeconomic and legal structures that we understand from very different historical and cultural perspectives. These institutional structures are not immutable, but can be changed through a resistance that emerges from active personal and political transformation. To achieve this, Indigenous and non-indigenous scholar/practitioners working with community-based activists must find a balance and remake a critical/diplomatic space wherein we can engage in respectful dialogue, recognizing fundamental differences yet building where we can on common theoretical and pedagogical ground.

In her study *Red Pedagogy: Native American Social and Political Thought*, Mayan-American theorist Sandy Grande expands on this theme. She argues that the prevailing lack of discourse between Western critical theorists and Indigenous scholars is

¹⁴⁹ Ibid., 64-70.

¹⁵⁰ Ibid., 70.

¹⁵¹ Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 167.

problematic because it limits how we might work together as allies in, and advocates for, decolonization and social transformation. She proposes the development of “*transcendent theories of decolonization*” that push the disciplinary boundaries of critical theory and pedagogy to insist that Western critical theorists “need to examine the degree to which critical pedagogies retain the deep structures of Western thought...and American Indian authors...(must) challenge their own propensity to privilege local knowledge and personal experience over the macroframes of social and political theory.”¹⁵² She rejects an assimilationist approach that would subsume Indigenous theory and pedagogy into Western theoretical frameworks. Instead, Grande lays the theoretical groundwork for a Red pedagogy which she defines as “that which emerges from a collectivity of critique and solidarity between and among indigenous peoples, other marginalized groups and peoples of conscience.”¹⁵³

Grande outlines the “competing moral visions” of Indigenous nationhood versus American liberal democratic nationalism that shape the history of Indigenous-Settler relations in the United States, manifested and reinforced in American Indian public policy, law and public education. Her analysis is equally applicable to the Canadian experience. In linking critical theory and Indigenous pedagogy, she argues that not only have Indigenous peoples been victims of colonialism, but they:

...have been revictimized at the hands of whitestream history. The lesson here is pedagogical. The imperative before us, as educators, is to ensure that we engage in a thorough examination of the causes and effects of all wars, conflicts, and intercultural encounters. We must engage the best of our creative and critical capacities to discern the path of social justice and then follow it. The ongoing injustices of the world call educators-as-students-as-activists to work together – to be in solidarity as we work to change the history of empire and struggle in the

¹⁵² Sandy Grande, *Red Pedagogy: Native American Social and Political Thought* (Oxford: Rowman & Littlefield Publishers, Inc., 2004), 2-3. (Emphasis mine).

¹⁵³ *Ibid.*, 8.

common project of decolonization. To do so requires courage, humility, and love (muna).¹⁵⁴

Grande's vision is rooted in Red pedagogy, but she also articulates what she sees as the role of non-indigenous allies in putting forth an agenda for learning as praxis. Along with other Indigenous scholars, she describes the power of the non-hierarchical holistic and experiential nature of Indigenous pedagogy - learning systems and traditions in which human beings are but one part of a whole universe of interconnected life that is grounded in place.¹⁵⁵ Vine Deloria, Jr. tells us that "The Indian world can be said to consist of two basic experiential dimensions, that taken together, provided a sufficient means of making sense of the world. These two concepts were place and power, the latter perhaps better defined as spiritual power or life force."¹⁵⁶ Yuchi scholar Daniel Wildcat (Muscogee) compares Western scientific knowledge with its emphasis on "universal objective truth," to Indigenous knowledge systems that "literally emerge from a place – an experience of the world... You experience places and learn, if attentive about processes and relationships in those places."¹⁵⁷ Metis elder Elmer Ghostkeeper explains that "(w)e observe and analyze everything holistically using our mind, spirit, emotion, and body. Our wisdom views experiential interactions as the primary learning process."¹⁵⁸ Taiaiake

¹⁵⁴ Ibid., 175.

¹⁵⁵ See for example, Deloria Jr. and Wildcat, *Power and Place: Indian Education in America*; Keith H. Basso, *Wisdom Sits in Places: Landscape and Language among the Western Apache* (Albuquerque: University of New Mexico Press, 1996); Elmer Ghostkeeper, "Weche Teachings: Aboriginal Wisdom and Dispute Resolution," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004); Robert Yazzie, "Navajo Peacemaking and Intercultural Dispute Resolution," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004).

¹⁵⁶ Deloria Jr. and Wildcat, *Power and Place: Indian Education in America*, 2.

¹⁵⁷ Ibid., 36.

¹⁵⁸ Ghostkeeper, "Weche Teachings: Aboriginal Wisdom and Dispute Resolution," 165.

Alfred links Indigenous pedagogy to transformative change, because “(t)he Onkwehonwe method of learning is really one of transformation, and it is experiential, observational, and practical.”¹⁵⁹

In my search for the common theoretical ground that Grande identifies, I turned again to transformative theory and critical pedagogy to look for points of congruence with Indigenous critical theory and pedagogy. I found that Western scholars working in these fields suggest that we do not learn solely or even primarily through reason or rationale, but also through our emotions, physical body, spiritual presence and imagination. Thus transformative learning involves experiencing the world, using ‘multiple intelligences’ that we use both consciously and unconsciously in ways that sometimes ‘disquiet’ or ‘unsettle’ us.

(It)...involves experiencing a deep, structural shift in the basic premises of thought, feelings and actions. It is a shift of consciousness that dramatically and permanently alters our way of being in the world. Such a shift involves our understanding of ourselves and our self-locations; our relationships with other humans and with the natural world; our understanding of relations of power in interlocking structures of class, race and gender; our body-awareness; our visions of alternative approaches to living; and our sense of the possibilities for social justice and peace and personal joy.¹⁶⁰

Indigenous peoples know this already based on their own philosophies, knowledge systems and laws. The theoretical foundations of transformative learning suggest that there is a stream of Western thought that is counter-hegemonic, with a potential to make decolonizing transformative space for Indigenous pedagogy as it is articulated by Indigenous scholars and activists. In relation to unsettling the Settler within, I was particularly struck by Boler and Zembylas’ concept of a “pedagogy of discomfort” which

¹⁵⁹ Alfred, *Wasase: indigenous pathways of action and freedom*, 149.

¹⁶⁰ Edmund O’Sullivan, “The Project and Vision of Transformative Education: Integral Transformative Learning,” in *Expanding the Boundaries of Transformative Learning: Essays on Theory and Praxis*, ed. Edmund V. O’Sullivan, Amish Morrell, and Mary Ann O’Connor (New York: Palgrave, 2002), 11.

they define as “an educational approach to understanding the production of norms and differences...(a) pedagogy that emphasizes the need for both the educator and student to move outside their comfort zones...(that are) ...the inscribed cultural and emotional terrains that we occupy less by choice and more by virtue of hegemony.”¹⁶¹ The notion of stepping outside comfort zones resonated strongly with me. This was my work experience, my practice - my personal and political decolonization. The connection was made – it requires us to *risk*.

Together these works helped me to understand more clearly the experiential nature of decolonization that requires non-indigenous people to listen deeply and learn from Indigenous peoples and to simply acknowledge with humility that Western knowledge is but *one* way – not *the* way of knowing our world. This difference is profound and I link it back to the observations made by Alfred and Tully at the conference – that the non-indigenous must experience struggle and being uncomfortable and that we must learn to listen. In other words we must *experience* decolonization not just *theorize* about it. And we can only do this in *relationship* with Indigenous peoples where we are open to listening, learning and doing things differently – knowing that we will stumble along the way and doing it nonetheless. I began to think about how I could capture this best in my study – this willingness to risk. Writing about the qualities of practice that peacebuilders must develop, Lederach talks about risk:

Risk is mystery. It requires a journey. Risk means we take a step toward and into the unknown. By definition, risk accepts vulnerability and lets go of the need to...control the process or the outcome of human affairs...Risk means stepping into a place where you are not sure what will happen.¹⁶²

In her anti-racist work with White people, bell hooks says that “...one of the principles

¹⁶¹ Boler and Zembylas, "Discomforting Truths: The Emotional Terrain of Understanding Difference," 111.

¹⁶² Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 163.

we strive to embody is the value of risk, honoring the fact that we may learn and grow in circumstances where we do not feel safe, that the presence of conflict is not necessarily negative..."¹⁶³ Writing about how storytelling has the power to challenge hegemonic narrative, Canadian anthropologist Julie Cruikshank reminds us that "what too often are missing from scholarly studies, are interruption and risk...unless we put ourselves in interactive situations where we are exposed and vulnerable, where...norms are interrupted and challenged, we can never recognize the limitations of our own description."¹⁶⁴ In assessing the quality of our research, Strega urges researchers to reflect on "our own complicity in systems of domination and subordination."¹⁶⁵ Doing this while working within such a system was highly problematic for me. Returning to the university to complete my dissertation afforded me intellectual and political freedom – a place/space to write critically about what I see as the real limitations of current Settler approaches to reconciliation. I do so then, as an insurgent educator who seeks to resist in ways that draw on critical transformative theory, but are also rooted firmly in my own practical experience.

Of all the work I have done over the years in Indigenous contexts, none has moved me as powerfully as my work related to the legacy of Indian residential schools. It has truly required me to risk – as these authors describe - in ways that are deep and profound, and that I will continue to reflect on and learn from for many years. I realized that if I want to write about unsettling the Settler within with authenticity and integrity as part of my own truth-telling, I had to write about this as a case study within the dissertation. Moreover, I decided to write specifically about my experience of

¹⁶³ hooks, *Teaching Community: A Pedagogy of Hope*, 64.

¹⁶⁴ Julie Cruikshank, *The Social Life of Stories: Narrative and Knowledge in the Yukon Territory* (Vancouver: UBC Press, 1998), 165.

¹⁶⁵ Strega, "The View from the Poststructuralist Margins: Epistemology and Methodology Reconsidered," 229.

participating in the Hazelton apology feast because it has been my most unsettling experience; it exemplifies the kind of deep experiential engagement that I advocate; it is a concrete example of making space for Indigenous history, diplomacy, law and peacemaking practices. Finally, it weaves together the major themes of the study in ways that link theory and practice on the ground. According to Social Research Professor Martyn Denscombe, a case study approach creates more clearly defined boundaries around the research and allows in-depth analysis of complex social processes and relationships. It uses a variety of research methods and data sources to triangulate data and validate the research. I draw on a multidisciplinary body of published literature and other data sources such as published reports, parliamentary papers, and media materials, to make new theoretical connections. This is important if we want to understand how a variety of factors influence and shape a particular conflict. Finally, a case study looks at phenomena in its natural setting which makes it “particularly suitable where the researcher has little control over events...there is no pressure on the researcher to impose controls or change circumstances.”¹⁶⁶ This is an important consideration for me because my experience in the Hazelton feast involved the giving up of control in decolonizing ways that made space for Gitxsan diplomacy, law and peacemaking practices. My methodology for unsettling the Settler within involves linking critical theory to practice and is written in a way that mirrors the decolonizing process I set out. Thus I *practice* a pedagogy of discomfort by writing about my personal decolonizing journey, which is distinguished in the body of this work as italicized text. I use a series of self-reflexive vignettes to describe the insights I have acquired in public forums and conferences that I have attended.

In thinking about how to construct a case study within a larger theoretical

¹⁶⁶ Martyn Denscombe, *The Good Research Guide: For Small Scale Social Research Projects* (Buckingham: Open University Press, 1998), 38-40.

framework of justice and reconciliation, I am influenced by critical race theorist Eric Yamamoto. Within the context of historical racial injustice and reconciliation in the United States, he observes that reconciliation or “healing racial wounds...entails engagement and struggle. The engagement must be mutual...and the struggle must be political and cultural...”¹⁶⁷ Yamamoto calls for “an explicit race praxis characterized by reflective action: infusing antiracism practice with aspects of critical inquiry and pragmatism and then recasting theory in light of practical experience.”¹⁶⁸ Using concrete examples - case studies of apology and reparation involving Hawaiians, Asian-Americans and the South African Truth and Reconciliation Commission, Yamamoto argues that the praxis of “interracial justice provides practical points of inquiry – recognition, responsibility, reconstruction, and reparation – for both assessing and guiding specific interracial healing efforts,”¹⁶⁹ within a reconciliation framework. Pascua Yaqui scholar Rebecca Tsosie draws on Yamamoto’s methodology to develop a theory of *intercultural* justice in which she argues that reparations are essential to reconciling relations between Native Americans and broader American society.¹⁷⁰ Both scholars emphasize the central role that history plays in addressing the racial and cultural harms that shape intergroup relations in North America.

Viewed from this perspective, dialogue about historical conflicts raises our consciousness, enabling us to achieve common understandings about our past experientially. We reconcile our worldviews by shifting our historical consciousness, which is not to say that we must create a monolithic historical narrative, but that we

¹⁶⁷ Yamamoto, *Interracial Justice: Conflict and Reconciliation in Post-Civil Rights America*, 50-51.

¹⁶⁸ *Ibid.*, 129.

¹⁶⁹ *Ibid.*, 13.

¹⁷⁰ Rebecca Tsosie, "Acknowledging the Past to Heal the Future: The Role of Reparations for Native Nations" (paper presented at Reparations: An Interdisciplinary Examination of Some Philosophical Issues, Queen's University, Kingston, Ont., 2004), 14.

recognize where we differ and where we can agree. In this way, by deepening the dialogue, linking theory, critical reflection and praxis, history becomes an experiential pathway to decolonization, restitution and a just reconciliation. Accordingly, to move beyond the limitations of existing North American conflict resolution approaches in this study, I reframe the historical grievances of Indigenous peoples in Canada within a broader context of international restitution and reconciliation theory. In this way, I hope to shift the discourse of reconciliation from a narrow legalistic perspective to one wherein victims of historical injustices demand political recognition and moral accountability – moral justice – from perpetrator nations.

Using transformative theory and recent works on deliberative dialogue, public memory and historical consciousness, I conceptualize history not simply as the intellectual study of the past - the facts and interpretations through which we gain *knowledge* about our social world - but as a *critical learning practice* – an experiential pedagogical tool that we use to engage in deep dialogue about the past through acts of story, ceremony, ritual and symbol. Drawing on my own experience in the Hazelton apology feast, I want to understand how *public* acts of truth-telling, restitution, apology and remembrance that make space for Indigenous diplomacy, law and peacemaking practices, open up possibilities for what Roger Simon calls “an ethical learning that impels us into a confrontation and ‘reckoning’ not only with the stories of the past but also with ourselves as we *are* (historically, existentially, ethically) in the present.”¹⁷¹ We require public forums to accomplish this, Schugurensky argues, because critical self-reflection alone is not sufficient to create broad systemic social change. He recognizes “civic education’s potential for critical thinking, bridging the gap between learning and everyday life, understanding the connection between power and knowledge, using history

¹⁷¹ Roger I. Simon, "The Pedagogical Insistence of Public Memory," in *Theorizing Historical Consciousness*, ed. Peter Seixas (Toronto: University of Toronto Press, 2004), 187.

to extend democratic rights and identities, and operating across a wide variety of public spheres.”¹⁷² In these public spaces, we engage in dialogue in ways that build our capacity for political agency and social change. The value in this kind of on the ground participatory democracy, he says, is that it creates a “space in which ordinary citizens can acquire the knowledge, skills, attitudes and values to become more critical, open, effective, and caring political agents.”¹⁷³

Indigenous and Western transformative scholars view the capacity to rethink history using critical and moral reflection combined with social action as key to social transformation. They suggest that it is possible, through dialogue about our conflicting histories, to develop a new shared history that does not require reaching consensus about the past, but rather recognizes difference and makes space for the histories of the oppressed. Writing from the perspective of a deliberative practitioner, John Forester says:

deliberation in the shadow of trauma may require much more than a neutral political space in which to debate claims... What is the relationship between the working through of historical traumas (of racism, exploitation, expropriation, displacement, and murder), on the one hand, and the processes of public deliberations, on the other. Surely it will not do to restrict our accounts of political deliberations to encounters in which participants have already come fully to terms with the legacies of victimization, resignation, silence, and humiliation they have inherited. To sanitize deliberations in this way would make a rehomogenized mockery of any supposed pluralist character they might have.¹⁷⁴

It is this sanitizing, this silencing and denial of Indigenous peoples’ histories that we have perpetuated in negotiation processes. In very fundamental ways, we have made no room

¹⁷² Schugurensky, “Transformative Learning and Transformative Politics: The Pedagogical Dimension of Participating Democracy and Social Action,” 65.

¹⁷³ Ibid., 65. Other scholars also look at the implications of deliberative democracy for participatory consensus-building processes that deal with public policy conflicts. See for example, Amy Gutmann and Dennis F. Thompson, “Reply to the Critics: Democratic Disagreement,” in *Deliberative Politics: Essays on Democracy and Disagreement*, ed. Stephen Macedo (New York: Oxford University Press, 1999); Stephen Macedo, ed., *Deliberative Politics: Essays on Democracy and Disagreement* (New York: Oxford University Press, 1999).

¹⁷⁴ Forester, *The Deliberative Practitioner: Encouraging Participatory Planning Processes*, 211.

for history at the negotiating table or in reconciliation discourse more broadly in Canada. In tracing the historiography of the peacemaker myth and countermyth of Indigenous diplomacy and comparing this to contemporary reconciliation discourse and conflict resolution theory and practice, I hope to lay bare the persistent impact of Settler myth, history and culture that prevents us from transforming historical grievances in ways that support a just reconciliation.

This leads me to consider the deeper implications of silencing and denying our colonial history of violence with respect to the political role that historians play in either maintaining these silences or bringing them to public attention. Scholars who study the links between historical consciousness and public history education as it relates to coming to terms with the past, call upon historians to become more critically engaged in order to expose the roots of racism, exclusion and oppression that shape North America's past. The general public continues to deny and/or silence the past, preferring to cling instead to "comfortable" myths about Indigenous peoples. This has profound implications for our present complicity in maintaining the racism and oppression of colonialism. Haitian-American historian, Michel-Rolph Trouillot observes that "we are never as steeped in history as when we pretend not to be, but if we stop pretending we may gain in understanding what we lose in false innocence. Naivete is often an excuse for those who exercise power... The ultimate mark of power may be its invisibility; the ultimate challenge, the exposition of its roots."¹⁷⁵ In this way, he links history and power to argue that historians must write about the past in ways that enable the public to understand history, not with the "false innocence" that comes from denial, but authentically as social actors with moral and ethical integrity. From his perspective, historians are not simply 'objective' recorders, judges or sanitizers of past events. Rather they are obliged, ethically

¹⁷⁵ Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995), xix.

and professionally, to make visible the connections between a colonial past and present injustice, racism and oppression by exposing how power is exercised to privilege dominant culture histories while silencing those of the oppressed. Writing about the Indian residential school experience in Canada, Athabaskan scholar Dian Million looks at how power relations shape the narratives of silence and telling, determining under what circumstances stories are silenced or told. She observes that “(h)istory...will never be only the interminable chaos of “what happened,” it stands for the process that we go through to “tell” what happened.”¹⁷⁶

At the same time, Crow Creek Sioux scholar Elizabeth Cook-Lynn, writing in the American context, argues that the emergence of an Indigenous countermyth that challenges mainstream American history has given rise to a backlash that is often manifested as a false innocence about the past on the part of non-indigenous people. Yet the attempt by Indigenous scholars to counter this sanitized and “largely mindless history...is seen as inappropriate scholarship.”¹⁷⁷ Historians who attempt to write counterhistory are subject to accusations of ‘bias’ and poor scholarship. So part of the challenge is decolonizing the discipline of history itself. In a critique of Canadian nationalist history, Timothy Stanley argues that writing history from an anti-racist stance enables us to counter national narratives that exclude or minimize those aspects of our past that do not fit with popular myths about Canada as a tolerant country of equality, diversity and inclusion.¹⁷⁸ These scholars share a common belief that history can provide a powerful lens on the past through which the public becomes more conscious of how our

¹⁷⁶ Million, "Telling Secrets: Sex, Power and Narrative in the Rearticulation of Canadian Residential School Histories," 12.

¹⁷⁷ Cook-Lynn, *Anti-Indianism in Modern America: A Voice from Tatekeya's Earth*, 175.

¹⁷⁸ Timothy J. Stanley, "Why I Killed Canadian History: Conditions for an Anti-Racist History in Canada," *Histoire sociale / Social History* XXXIII, no. 65 (2000).

perceptions and beliefs - our myths - about the past impact the current political and social landscape.

Ethical Considerations

In thinking about the ethical considerations of this research, I am acutely aware, as a non-indigenous researcher, of the potential for any research related to Indigenous peoples to exploit, revictimize or further harm individuals and communities. I work from a fundamental principle that my methodology should do none of the above. Within the emotionally charged and politically volatile environment of Indian residential schools issues, I am committed to making the wellbeing of IRS survivors my highest priority. In writing about the Hazelton feast, I chose not to interview the survivors who participated in the Hazelton ADR pilot project. I did not think it appropriate to ask them to relive this experience, knowing that it might trigger for them, unintended consequences that come with telling and retelling their experiences. I do not retell their stories, both because they are not mine to tell, and to respect privacy. At the same time, I thought it necessary to have some sense of whether there was support for this research. I consulted with Matilda Daniels, the Gitx̱san elder who was the feast coordinator. She advised me that the Hazelton feast advisory group supported the project in principle but did not wish to be involved directly. The Gitx̱san want the Hazelton feast to serve a public education function. To this end, they recorded the feast as a public event. The media was invited and attended, and reports subsequently appeared in the local media. My intention is also to educate, but my primary audience is non-indigenous. From the standpoint of participant-observer, my focus is on reflecting on my own experience as part of my methodology for unsettling the Settler within. In this study, the only IRS story I recount is from the public testimony of Ms. Flora Merrick, who testified before the House of

Commons Standing Committee on Aboriginal Affairs and Northern Development. Her testimony is thus part of the official public parliamentary record. As such, it is critical to include it in order to understand the powerful response it evoked from the members of the Standing Committee. By focusing only on public events - the Hazelton feast, conferences, and the AANO Committee meetings - I try to strike a balance between the absolute need to respect survivors' dignity and right to privacy; and the importance of conveying to Canadians, the full emotional intensity and moral failure of the flawed discourse of reconciliation that exists in Canada.

My involvement in the Hazelton feast was in my capacity as a representative of the government of Canada. I recognize that unequal power relations inevitably shape interactions between Indigenous peoples and governments. In Chapter Six, I explain how we tried to address this colonial reality by identifying opportunities to relinquish control. While I acknowledge that government officials may not agree with my assessment of the ADR program, I believe that candid, critical assessment is absolutely essential if Canadians are to come to grips with the fundamental injustices that are built into such programs. To respect confidentiality, I do not describe the negotiations involved in settling the IRS claims in the Hazelton ADR pilot project. All of the documentary sources used in Chapter Four, "Indian Residential Schools: Reconciliation as Contemporary Colonial Shapeshifting," are readily available in the public domain. To mitigate the absence of interviews, I asked for feedback from various individuals. Ms. Daniels provided me with extensive feedback on a research paper produced for the Law Commission of Canada on which Chapter Six is based. Deanna Sitter, Resolution Manager, IRSRC and Brian Thorpe, Senior Advisor, Residential Schools Steering Committee, United Church of Canada, also provided me with informal feedback. In addition, Dr. Maggie Hodgson, Carrier elder, Special Advisor to IRSRC and former CEO

of the Nechi Institute in Edmonton, Alberta, who attended the Hazelton feast, provided an Indigenous perspective, on my perceptions of the feast. In this way, I became more aware of the challenges of working in intercultural contexts. Niis Noolh (Raymond Jones), Gitx̱san member of the Indigenous Governance Council, Indigenous Governance Program also kindly agreed to participate in the formal evaluation of this dissertation. None of these individuals are responsible for the views expressed in this study, which are solely those of the author. I do not represent the Hazelton ADR pilot project participants, the Gitx̱san Nation, the Government of Canada, Indian Residential Schools Resolution Canada, or the United Church of Canada. This research project meets the research protocol standards of the Indigenous Governance program. It was also reviewed by the University of Victoria Research Ethics Board, to ensure that it meets appropriate standards of ethics as outlined by the University of Victoria research regulations involving human subjects.

Limitations, Strengths and Outcomes of the Research

Every research project requires choices to be made about its scope and breadth as well as its ethical underpinnings. A limitation of the study is that I do not conduct comparative case studies of reconciliation processes outside Canada. This was simply beyond the scope of what I could reasonably achieve within the timeframes and resourcing available. I focus primarily on Canadian government responses to IRS claims. Therefore I do not examine the role of the churches in any depth. Future research could encompass comparative studies of other IRS initiatives, including those of various churches, who are involved in discussions concerning a national truth-telling and reconciliation process. Ultimately, I believe that these limitations are mitigated by the synthesis of multidisciplinary literature, a critique of ADR and reconciliation discourse,

and my emphasis on the pedagogical potential of reconciliation processes, based on lessons learned in my own work. Consequently, this study constitutes a strong research foundation on which to build. I focus on the Indian residential school legacy as a case study because it is a powerful example of Settler violence that weaves a continuous thread from past to present in Canada's history. I describe my experience in the Hazelton feast to argue that reconciliation in the Gitx̱san Feast Hall is a place of encounter wherein public acts of truth-telling, apology, restitution and remembrance are experienced through Indigenous story, ceremony, symbol and ritual. To deepen understanding of why these public acts are so critical to restorying our history, I link the pedagogy of experiential engagement that characterizes Indigenous peacemaking traditions to recent studies on the pedagogy of public testimony and witnessing, historical cultural trauma and the power of political ritual. In terms of research outcomes, I make my work actionable by setting out strategies with guiding principles and practices for Settlers to work as Indigenous allies. In this way, by unsettling ourselves, we can begin the hard work of restorying, making space for Indigenous counter-narratives - histories of diplomacy, law, and peacemaking practices. I am acutely aware that Indigenous peoples rightly criticize research projects that fail to be of some benefit to First Nations communities. Therefore, a copy of this dissertation will be provided to the community – to be deposited in the Gitx̱san Library, a community-based institution under the administration of the Gitx̱san that serves as a repository for collections and research materials related to the Gitx̱san. Based on Mr. Jones' recommendation, I am also exploring the possibility of producing a layperson's precis of this work that might be useful for the Gitx̱san. A copy will also be provided to Dr. Maggie Hodgson, and copies will be sent to IRSRC – Resolution West and the United Church of Canada if they so request.

Throughout the study I keep in mind the need to unsettle the Settler within, combining a critical reflective approach and a pedagogy of discomfort to explore the

research questions and themes I set out in this chapter. Within this context, transformative perspectives explain what happened at the academic conference that I describe at the beginning of this introduction. Transformative theory helps us to understand why John Borrows' story evoked such a powerful response, both from the young Indigenous law student who insisted on its' legitimacy and from the non-indigenous scholar who was 'disquieted' or "unsettled" by its' 'strangeness' in an academic forum that favours Western scientific discourse. Of course, *both* the Indigenous and non-indigenous must be engaged in the transformative struggle to decolonize. But the hard truth is that Settlers, unlike Indigenous peoples, can choose to continue denying, ignoring the history that is still alive, albeit with negative psychological consequences. By this I mean that we will continue to carry the burden of guilt and fear that keeps us stuck in our role as perpetrators and colonizers. Part of the challenge for those of us who would be allies is simply to stay the course, when it seems on the surface to be much easier and far more comfortable just to walk away. To accept our responsibility as non-indigenous people to stay in the struggle - willing to risk facing the Settler within head-on, to be 'disquieted' or 'uncomfortable' - so that we can learn different ways of being in relationship with Indigenous peoples. In adopting this research strategy, I attempt throughout this dissertation to respond to the challenges set out by Taiaiake Alfred and James Tully that are specific to non-indigenous people and our role in decolonization. In this way I hope to demonstrate that although Settlers have continued to use the violent strategies of colonization to deny and silence the histories and knowledge of Indigenous peoples, we can also choose to engage our past and present relationship differently – to restory the history that is alive. In doing so, we must question deeply the very epistemological and pedagogical lenses through which we view the world and Indigenous peoples. In the following chapters I explore these themes in greater depth.

Chapter Three

Benevolent Peacemakers/Indigenous Diplomats: Myth, Ritual and History

Myth is a highly charged concept to link with the study of history... 'myth and history are typically construed as antithetical approaches to the past'... Yet... myth cannot be so easily dismissed from a consideration of history, particularly from histories of nations and national identity. All histories contain some element of myth.¹⁷⁹

In this chapter, I argue that Canada's self-image as a nation of benevolent peacemakers is rooted in a national myth that began with colonization and continues today in a discourse of reconciliation. Settler symbolic violence – those coercive strategies of assimilation that are manifested in the everyday bureaucratic practices of Aboriginal law, policymaking and negotiations – is perpetuated in a peacemaker myth that must be dislodged in the Settler mind. From a critical pedagogical perspective, rethinking our ideas about what constitutes violence and becoming more conscious of how the peacemaker myth and dominant culture rituals actually rationalize and justify deeply ingrained violent patterns of colonial behaviour, is key to unsettling the Settler within. The peacemaker myth that currently defines the Settler story works to reinforce colonial power relations that keep us stuck in the binary roles of colonizer/colonized, oppressor/oppressed, and perpetrator/victim. Until we expose and name the systemic patterns of violence that form the real foundation of Indigenous-Settler relations, there can be no meaningful reconciliation. This truth-telling - moving from denial and silencing of Indigenous presence to recognizing and making space for it - requires nothing less than a paradigm shift, a restorying of our shared history.

¹⁷⁹ Rebecca Collins. "Concealing the Poverty of Traditional Historiography: myth as mystification in historical discourse." *Rethinking History*, Vol. 7 No. 3 2003. 341-3, 256. quoted in Mark Hearn, "Myths, Power and the Historian's Responsibility: Australian Historians and Narratives of Nation." Paper presented at 20th International Congress of Historical Sciences (Sydney, Australia: 2005), 1-2.

To begin, I explain why we must take myth, ritual and history into account with regard to Indigenous-Settler relations. Juxtaposing 19th and 21st century versions of the peacemaker myth to demonstrate its persistence, I argue that this national myth emerges full force in the mid-19th century when treaty-making as diplomacy was abandoned by government officials who practiced “token” diplomacy even as they implemented bureaucratic, administrative “solutions” to the Indian problem. I discuss how the peacemaker myth is perpetuated in popular history representations today. I then turn to the countermyth of Indigenous history, political philosophy and law which provides a fundamentally different perspective on treaties and peacemaking. Indigenous diplomatic principles and practices stand in sharp contrast to those of the colonizer. Using British Columbia as connecting theme, I trace the peacemaker myth in the actions of federal and provincial bureaucrats in the 19th and early 20th century, and consider the 1991 *Delgamuukw* trial which reveals the depth of Settler denial and symbolic violence that persists even in the face of Gitxan and Wet’suwet’en history and law. After setting out the historical characteristics of the myth and countermyth of benevolent peacemakers and Indigenous diplomats, I suggest that the peacemaker myth remains the “historical myth of choice”¹⁸⁰ in Canadian popular history and in the discourse of reconciliation that currently prevails. As a result, seemingly disparate federal and provincial policy initiatives share one common feature: a flawed and rather shallow concept of reconciliation that has become “the paradigm for post-colonial colonialism,”¹⁸¹ the latest incarnation of colonial shapeshifting.

¹⁸⁰ Dara Culhane, *The Pleasure of the Crown: Anthropology, Law and First Nations* (Burnaby: Talon Books, 1998), 369.

¹⁸¹ Alfred, *Wasase: indigenous pathways of action and freedom*, 152.

The Importance of Myth, Ritual and History for Unsettling the Settler Within

Why is it important to consider the power of myth, ritual and history in relation to unsettling the Settler within? Revealing the colonial mythologies and false archetypes of Indigenous peoples that form the underpinnings of Settler history is a key pedagogical task for Settlers. Regardless of whether we seek to maintain, defend or challenge the status quo, our myths sustain us, reinforced in the rituals we enact. Although Settlers consistently challenge the authenticity of Indigenous histories, we never question the authenticity of our own romanticized myths. The peacemaker myth is based on untruths about our motives and actions in treaty-making – untruths that are rooted in moral and cultural arrogance and a fundamental disregard for Indigenous history, law and diplomatic principles and practices. But members of dominant cultures rarely think about myth and ritual in relation to history. Rather we construct our social reality and historical truths within a colonial epistemology that is articulated in the everyday world as “common sense.”¹⁸² Our unexamined assumptions about what constitutes “real” history or law are based on Western knowledge systems that value neutrality and scientific objectivity over engagement and intersubjectivity. Consequently, we pay little attention to how our own myths and rituals influence our historical understanding. At the same time, we dismiss Indigenous myth, ritual and history, questioning its legitimacy and cultural authenticity. Lumbee legal scholar, Robert A. Williams, Jr., reminds us that “myths have consequences” – that Settler myths about Indigenous peoples’ cultural and moral inferiority have been used to justify violence “as simply the extension of the West’s enlightened reason upon the “savage” Indian-occupied frontiers of the New World.”¹⁸³

¹⁸² Elizabeth Furniss, *The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community* (Vancouver: UBC Press, 1999), 14; Bruce G. Miller, “Common Sense and Plain Language,” *BC Studies* 95, no. Autumn (1992), 55-56.

¹⁸³ Robert A. Williams, Jr., *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800* (New York: Oxford University Press, 1997), 17.

The challenge for Settlers is to stop justifying and rationalizing the lies we have told ourselves. Our reluctance to do so is an indicator of what George Manuel recognized as Settlers' deep dis-ease about our relationship with Indigenous peoples.¹⁸⁴

First, what is a myth? The dictionary defines myth as "a traditional story of ostensibly historical content that serves to unfold part of the world view a people, or explain a practice, belief or natural phenomenon." Paradoxically, it also says that a myth is "an ill-founded belief held uncritically especially by an interested group."¹⁸⁵ In *Ritual, Politics, & Power*, David I. Kertzer argues that myth and ritual play a key role in political life whether invoked by conservative forces to maintain the status quo or by those who seek social change. He says that if we want to understand the nature of politics and public policy, we must turn a critical eye to the myths and rituals that serve as a moral compass in societies.¹⁸⁶ Myths are powerful yet unacknowledged influences on how we make sense of our world.

Myths condition the public to the powerful symbols used by politicians. Myths underwrite the status quo in times of stability and they chart the course of change in times of stress. In the day-to-day business of politics myths set the terms for most public policy debate. When mythical themes and myth-related language are stripped away from policy discourse, very little of substance remains. Most political controversy centers around disagreement over which myth to apply to a particular problem.¹⁸⁷

Viewed in this way, we begin to see how myth shapes and reinforces how we rationalize not only our history, but the public policy, law and ADR processes we develop in the everyday world of Indigenous-Settler relations. The very fact that we unconsciously

¹⁸⁴ Manuel and Posluns, *The Fourth World: An Indian Reality*, 72.

¹⁸⁵ Webster's New Collegiate Dictionary.

¹⁸⁶ David I. Kertzer, *Ritual, Politics & Power* (New Haven and London: Yale University Press, 1988), 12.

¹⁸⁷ Lance Bennet. "Myth, ritual and political control," in *Journal of Communication*. 30: 168. Quoted in *Ibid.*, 13.

subscribe to myth while consciously constructing history, law and public policy speaks to the hidden power of myth. Joseph Campbell identifies four functions of myth in societies – mystical, cosmological, sociological and pedagogical. He suggests that in Western society, the sociological function of myth that “supports and validates a certain social order” has become predominate in North America.¹⁸⁸ Like Kertzer, he makes the connection between myth and ritual in how we understand our personal, sociopolitical and historical world.

Rituals evoke the energy of myths – their power compels us to behave and think in certain ways. But the role of ritual in political relations, conflict and peacemaking is not well understood. Western conflict transformation and peace scholars are just beginning to turn their attention to the importance of ritual in peacemaking, something Indigenous peoples have always known and practiced.¹⁸⁹ Understanding how myth and ritual are embedded in our historical consciousness is key to work of restorying history. Campbell describes, for example, the myth and ritual connected to the Western legal system. The judge, dressed in a robe and armed with a gavel, is a highly visible, deeply symbolic and mythical representation of Western law and justice.¹⁹⁰ Less visible are the ways in which law embedded in a myth of neutrality, interprets history in the courts in ways that question Indigenous authenticity and deny the legitimacy of Indigenous knowledge systems, history and law.¹⁹¹ Courtrooms are places of “public ritual performance” that enact and legitimize dominant culture hegemony, reinforcing unequal

¹⁸⁸ Joseph Campbell and Bill Moyers, *The Power of Myth* (New York: Anchor Books, 1991), 39.

¹⁸⁹ See for example, Schirch, *Ritual and Symbol in Peacebuilding*.

¹⁹⁰ *Ibid.*, xii-xiii.

¹⁹¹ Miller, "Common Sense and Plain Language."; Robin Fisher, "Judging History: Reflections on the Reasons for Judgment in *Delgamuukw v. B.C.*," *BC Studies*, no. Special Issue No. 95 (1992); Arthur J. Ray, "Native History on Trial: Confessions of an Expert Witness," *The Canadian Historical Review* 84, no. 2 (2003); Don Monet and Ardythe) Skanu'u (Wilson, *Colonialism on Trial: Indigenous Land Rights and the Gitksan and Wet'suwet'en Sovereignty Case* (Gabriola Island, BC: New Society Publishers, 1992).

power relations.¹⁹² Litigation has its own forms of ritual – legal precedent, rules of evidence, discovery, witness testimony – that are highly problematic for Indigenous peoples, as the *Delgamuukw* trial, which I discuss below, so clearly demonstrates. Moreover, Western law's myths and rituals also dominate the ADR processes that we have established to negotiate treaties and settle historical claims. Within these contexts, we have made very little space for Indigenous history, law and peacemaking. Rather we have created a narrow colonial space in which "ideologies of justification are constructed in law, government, imagination, and popular culture...the space wherein lies are legitimized and truths silenced."¹⁹³

The Settler myths and rituals that shape the contours of our history exemplify the virtues and practices of "pioneer spirit," "civilizing new frontiers" and "settling empty lands," in which Indian archetypes also play a central role. Mythical archetypes of Indigenous peoples as "violent warriors," "noble savages," "victims of progress" or more recently, "beneficiaries of race-based rights," are deeply ingrained in the Canadian national psyche, reinforced in popular culture and media representations.¹⁹⁴ Jeff Corntassel observes that although American policymakers tend to ignore history, their policymaking is influenced by negative stereotypes of Indigenous peoples.

Manufactured images on the "Bloodthirsty Savage," "Noble Savage," the "Child-Like Indian," the native as "Spirit Guide," the native as "Protester," and more recently, the "Rich Indian," have become embedded in educational and governmental policymaking institutions and render contemporary native people invisible. To make matters worse, these stereotypes are still used to inform policymaking decisions.¹⁹⁵

¹⁹² Culhane, *The Pleasure of the Crown: Anthropology, Law and First Nations*, 155.

¹⁹³ *Ibid.*, 49.

¹⁹⁴ Furniss, *The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community*, 53-60.

¹⁹⁵ Jeff Corntassel, *Forced Federalism: Contemporary Challenges to Indigenous Nationhood*, (University of Oklahoma Press, forthcoming). See also Robert F. Berkhofer, Jr., *The White Man's Indian: Images of*

In a similar vein, Chippewa scholar Gail Guthrie Valaskakis notes that neither the contemporary stereotypes of Indigenous peoples as victims or “New Age” spiritual environmentalists, “(l)ike the companion myths drawn from social imaginaries of the savage as noble or evil, lazy or militant, allows newcomers to identify Native people as owners and occupants of North American land, (or) as sovereign nations...”¹⁹⁶ In a study of the implications of Settler notions of “Indian authenticity,” historian Paige Raibmon argues that binary definitions such as Indian/White, traditional/modern, and civilized/uncivilized are “key elements of a colonial cosmology” that non-Indigenous people employ to limit Indigenous claims to nationhood, lands and resources even as Indigenous peoples used them strategically as a means of resistance to “access the social, political, and economic means necessary for survival under colonialism.”¹⁹⁷ For both, the political stakes and material consequences of litigation, negotiation, and resource management are high.

Not surprisingly, culture has become the benchmark of authenticity and difference upon which so much hinges. Julie Cruikshank observes that Western ideas about what constitutes authentic Indigenous culture have far-reaching implications. When Indigenous peoples do not conform to Western ideals, they risk de-legitimization. She argues that the “pitfall of axioms is that they become weapons when indigenous peoples fail to pass arbitrary tests of authenticity.”¹⁹⁸ Thus Settlers establish the criteria for determining Indigenous authenticity, compelling First Nations to “prove” their claims to history, land,

the American Indian from Columbus to the Present. (New York: Vintage Books, 1979).

¹⁹⁶ Gail Guthrie Valaskakis, *Indian Country: Essays on Contemporary Native Culture* (Waterloo, Ont.: Wilfred Laurier University Press, 2005), 41.

¹⁹⁷ Paige Raibmon, *Authentic Indians: Episodes of Encounter from the Late-Nineteenth-Century Northwest Coast* (Durham and London: Duke University Press, 2005), 3.

¹⁹⁸ Cruikshank, *The Social Life of Stories: Narrative and Knowledge in the Yukon Territory*, 60.

identity and nationhood. Indigenous peoples find themselves constantly at odds with the archetypal Indian that Settlers have created within our own colonial mythology. But if myths can work to reinforce the status quo, Campbell reminds us that they can also teach us. He suggests that Westerners must reconnect with the pedagogical function of myth.¹⁹⁹ Some conflict studies scholars have begun to explore this pedagogical role of myth, history and power relations within intercultural contexts.²⁰⁰ Eric Yamamoto and Michelle LeBaron suggest that reflecting critically on our stories, our myths about the past, plays a key role in addressing historical and contemporary conflicts. Yamamoto says that “the critical interrogation of stock stories often reveals the political and cultural shaping of these stories and the complexity and malleability of the group memories sustaining them.”²⁰¹ Writing about the connections between myth, history and power in relation to conflict resolution, LeBaron observes:

Exploring myths is an important way of inviting multiple voices into the way history is told. In countless conflict situations, myth-making obscures the importance of those who were less powerful or off the radar screen of those telling and retelling the story. Revising myths and unpacking the assumptions embedded within them is a powerful way to reimagine history and envision a new future that does not perpetuate myths that exclude and deny the importance of multiple voices.²⁰²

But questioning our assumptions in this way necessarily involves both critical self-reflection *and* action. Friere understood the pedagogical importance of challenging myth as essential to developing our consciousness about, and resistance to, all forms of

¹⁹⁹ Campbell and Moyers, *The Power of Myth*, 39-40.

²⁰⁰ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*; Michelle LeBaron, *Bridging Troubled Waters: Conflict Resolution from the Heart*; Schirch, *Ritual and Symbol in Peacebuilding*.

²⁰¹ Yamamoto, *Interracial Justice: Conflict and Reconciliation in Post-Civil Rights America*, 184.

²⁰² LeBaron, *Bridging Cultural Conflicts: A New Approach for a Changing World*, 280-281.

oppression.²⁰³ Although he wrote from the perspective of the oppressed, Friere's work is also relevant for the colonizer, the oppressor, the perpetrator. Reflecting critically on our own myth, ritual and history is a necessary step in Settler decolonization.

All peoples' histories contain some element of myth that serve to reinforce shared cultural values and a sense of ourselves as moral beings. Transformative scholar George J. Sefa Dei reminds us that "while it is important to be aware of the dangers of romanticization and overmythification as we speak and write about the colonized other/encounter..." (neither should we) dismiss the power of imaginary mythologies as part of the decolonizing project."²⁰⁴ But the Settler myth has been one of exclusion, denial and guilt. Our very need, however unconscious, to rationalize and justify our colonial mythology precludes our use of moral imagination – that capacity to imagine new, creative ways of interacting that would transcend the destructive, violent patterns of colonialism that exist. Such transformation requires us to understand the historical roots of the peacemaker myth. What are the mythical underpinnings of Settler history that serve as a touchstone to maintain the delusion that we are acting with moral integrity towards Indigenous peoples, despite clear evidence to the contrary?

The Peacemaker Myth: The Settler Story of Colonization Then and Now

Let us have Christianity and civilization to leaven the mass of heathenism and paganism among the Indian tribes; let us have a wise and paternal Government faithfully carrying out the provisions of our treaties, and doing its utmost to help and elevate the Indian population, who have been cast upon our care, and we will have peace, progress and concord among them in the North-West; and instead of the Indian melting away, as one of them in older Canada, tersely put it, "as snow

²⁰³ Paolo Friere, *Teachers as Cultural Workers: Letters to Those Who Dare Teach* (Boulder, Co.: Westview Press, 1998), 41.

²⁰⁴ George J. Sefa Dei, "Spiritual Knowing and Transformative Learning," in *Expanding the Boundaries of Transformative Learning: Essays on Theory and Praxis*, ed. Edmund V. O'Sullivan, Amish Morrell, and Mary Ann O'Connor (New York: Palgrave, 2001), 129-130. Dei cites A. Latta "Essentialism, memory and resistance: Aboriginality and the politics of authenticity," in *Oceania* 63 (1993): 254.

before the sun," we will see our Indian population, loyal subjects of the Crown, happy, prosperous and self-sustaining, and Canada will be enabled to feel, that in a truly patriotic spirit, our country has done its duty by the red men of the North-West, and thereby to herself. So may it be. (The Hon. Alexander Morris, 1880)²⁰⁵

Canada would not be Canada without the Aboriginal peoples...In fact, the European settlement in North America arose because First Nations were prepared to share their resources...It is now time for us to renew and strengthen the covenant between us...Canada faces no greater challenge than those that confront Aboriginal Canadians. It is a challenge of immense consequence...for the country as a whole...For too long, we have turned our backs on this moral and economic reality...Aboriginal Canadians must participate fully in all that Canada has to offer, with greater economic self-reliance and an ever-increasing quality of life, based upon historic rights and agreements that our forefathers signed long ago, but that are not to be forgotten...Let it be that ten years from now, people will look back on this day and this Roundtable as an event that marked a truly new beginning for Aboriginal peoples in Canada. One that heralds a brighter, healthier and more prosperous future. (The Right Hon. Paul Martin, PM. 2004.)²⁰⁶

Two visions of Canada separated by 124 years, that when juxtaposed, reveal disturbing similarities. The first quote is that of treaty commissioner Alexander Morris, in his 1880 publication, *The Treaties of Canada with the Indians*. Morris was tremendously influential in shaping Settler history in Canada, and his treatise on federal policy with regard to Indigenous peoples, in conjunction with similar reports from David Laird²⁰⁷ and Duncan Campbell Scott,²⁰⁸ laid the mythical foundations of a Settler story of

²⁰⁵ Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, Including the Negotiations on Which They Were Based*. (1880; reprint Saskatoon, Sk: Fifth House Publishers, 1991), 296-297.

²⁰⁶ Canada, Canada-Aboriginal Roundtable, "Strengthening the Relationship: Report on the Canada-Aboriginal Peoples Roundtable," 2004 http://www.aboriginalroundtable.ca/rtbl/strength_rpt_e.pdf (accessed August 20, 2005) 31-32, 37.

²⁰⁷ For biographical information on Laird, see Ray, Miller, and Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*, 106, 165, 171, 172, 205.

²⁰⁸ The most comprehensive biography of Scott remains, Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*.

treatymaking that “emphasized government generosity, First Nations passivity and treaties as contracts that extinguished the property rights of the original occupiers.”²⁰⁹ According to this version of the colonial story, British justice and colonial policy – treaties, law and order, the creation of Indian reserves, and Western education – would bring peace and progress, the “gifts of civilization,” to the frontier and salvation to the “disappearing” Indians. Indigenous peoples had only to behave as loyal subjects of the Crown, and they would inevitably become happy, prosperous and self-sustaining members of a new civilized society.

The second quote is from the prime minister of Canada, who spoke on April 19, 2004 at the convening of the Canada-Aboriginal Peoples Roundtable (CAPR) in yet another incarnation of bilateral Aboriginal policy negotiations. Prime Minister Martin provided a textbook example of how politicians invoke myth in the realm of policymaking. To be sure, his remarks reflect the political sensibilities of the 21st century - the overt racist and paternalistic language of the past is transformed into a discourse of reconciliation. We now “recognize and value” Aboriginal peoples and acknowledge our failure to honour treaty relationships. We promise to do better. Canadians, apparently now ready to face the moral and economic reality that we have hitherto denied, admit that we have failed to do our duty, failed to bring peace and progress to Indigenous peoples who somehow under our “wise” tutelage, have not become happy, prosperous and self-sustaining. Nor, as recent demographic studies demonstrate, did they disappear. It is easy, in retrospect, to see the cultural arrogance, racism and hypocrisy of 19th century bureaucrats like Morris. It is far harder for us to see these same traits in ourselves. The rhetoric of contemporary Settler politicians simply reflects the effectiveness with which Canadians have transformed and shapeshifted, from morally and culturally prescriptive 19th century imperialists into newly enlightened culturally sensitive 21st century

²⁰⁹ Ray, Miller, and Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*, 205.

“partners” in solving the Indian problem and “reconciling” with Indigenous peoples. But in our shapeshifting, we still carefully avoid looking too closely at the Settler problem and our deep denial of a history that is not about peacemaking, but violence and cultural genocide. This is the *true* moral, political and economic reality we must face.

Moving from the rhetoric of a cheap reconciliation to the substantive actions necessary to decolonize and transform our relationship will require unsettling the Settler within, beginning with a fundamental questioning of our most deeply cherished myth. The *Report of the Royal Commission on Aboriginal Peoples* conveyed how central the peacemaker myth is to Canadian national identity both on the domestic front and in terms of how we see ourselves as actors on the global stage. Since the 1980’s, the peacemaker as a national archetype has become even more firmly entrenched in the Canadian psyche through our involvement in the international peacekeeping arena in countries wracked by civil war and ethnic violence. But whereas most Canadians think that the peacemaker myth has its genesis in the 1960’s, when Prime Minister Lester B. Pearson promoted an international peacekeeping role for Canadians, its origins go back much further. The RCAP Commissioners explained how historical treaty-making played a significant role in developing our national persona as peacemakers.

The Canada that takes a proud place among the family of nations was made possible by the treaties. Our defining national characteristics are tolerance, pluralism and democracy. Had it not been for the treaties, these defining myths might not have taken hold here.²¹⁰

The peacemaker myth is rooted in a sense of moral and cultural superiority that is distinctly Canadian. According to one foreign policy critic, our predilection for peace, in rhetoric if not substance, has transformed Canada into a “Boy Scout imperialist” intent on

²¹⁰ Canada, Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*. Volume 2. Restructuring the Relationship, Vol. 2, Part 1, Chapter 2 "Treaties" (Indian and Northern Affairs Canada 2005) http://www.ainc-inac.gc.ca/ch/rcap/sg/sh3_e.html.#2%20Treaties. 5-6.

“responding to a missionary impulse which drives us to export our values to the less fortunate peoples of the world... (v)alue-oriented goals (that) appear consistent with a deeply-rooted, traditional theme in our national psyche, that of Canada as the world’s foremost peacekeeper, peacemaker and peace builder.”²¹¹

The peacemaker myth has become part of the common sense knowledge that cuts across all segments of Settler society and is periodically invoked by both the political left and right to propagate their respective political agendas. A leftist critic of Canada’s military actions and arms trade in international wars observes that the peacemaker myth is “integral to our culture,” but “like all myths... has very little basis in reality,” so that “(d)ismantling the myth of ‘Canada the Peacemaker,’ is one step toward building a culture of peace.”²¹² At the other end of the political spectrum, conservatives frame the myth as an unfortunate byproduct of liberalism. One conservative political columnist describes Canadians as “sold on empty moralizing,” chastising the liberal government for ineffective programs (including Native programs) that are just an “opportunity to highlight our great moral goodness,” rather than effect substantive change. Becoming more than a nation of empty moralizers, he says, “will require a profound change in the mindset of the majority of Canadians.”²¹³

While peace activists are primarily concerned with overseas actions and conservatives are hardly champions for First Nations rights and freedoms, this willingness to name hypocrisy at least challenges Canadian complacency. But regardless

²¹¹ Alan Gottlieb, *Romanticism and Realism in Canada's Foreign Policy* (C.D. Howe Institute, Benefactors Lecture, 2004) http://www.cdhowe.org/pdf/benefactors_lecture_2004.pdf (accessed September 14, 2005).

²¹² Richard Sanders, "Dismantling the Myth of 'Canada as Peacemaker,'" *Press for Conversion*, (2000) no. 40 <http://www.peace.ca/dismantlingmyth.htm> (accessed January 3, 2006). See also, Julie Ryan, "The Myth of Canada as Peacemaker," *London Free Press*, January 25, 2005 http://www.canoe.ca/NewStand/Columnists/London/Julie_Ryan/2005/01/25/909232.html (accessed August 18, 2005).

²¹³ Michael Campbell, "Canadians Are Sold on Empty Moralizing," *The Vancouver Sun*, April 21, 2005.

of whether critics call for its dismantling or chastise us for not living up to its ideals, we do not question the historical roots of the myth. However, as peace studies scholar Anne Goodman suggests, we must now cast a much more critical eye on “the contradictions and discrepancies of Canada’s peacemaker image” not only in our foreign policy, but also at home with regard to historical and contemporary injustices perpetrated against Indigenous peoples.²¹⁴ Even when we are confronted with the fundamental contradiction between myth and reality, we tend to deny, obfuscate and minimize the latter. When the Oka Crisis erupted in 1990, the images of masked Mohawk warriors and armed Canadian soldiers that flashed across television screens were at odds with our self-image as peacemakers. Canadians were shocked and upset. How, we asked, could this be happening here? But as Dean Neu and Richard Therrien point out, given “the contested histories of settler society and our continuing complicity in genocidal practices directed at Indigenous peoples, the Oka stand-off (should) not have been seen as extraordinary at all.”²¹⁵ We must deconstruct the peacemaker myth because it enables Settler denial of Indigenous history to continue unabated. Moreover, our blind acceptance of the myth perpetuates symbolic violence in the law, policy and negotiation processes we establish to address the historical grievances of Indigenous peoples.

What are the historical roots of Canada’s Boy Scout imperialism and missionary zeal that defines our relationship with Indigenous peoples? The roots of the Canadian peacemaker myth are found in the historiography of North American treaty-making. In Canada, early accounts of treaty-making were dominated by government bureaucrats, such as Morris, Laird and Scott, who were also treaty negotiators. In their evaluation of

²¹⁴ Anne Goodman, "Transformative Learning and Cultures of Peace," in *Expanding the Boundaries of Transformative Learning: Essays on Theory and Praxis*, ed. Edmund O'Sullivan, Amish Morrell, and Mary Ann O'Connor (New York: Palgrave, 2002), 195.

²¹⁵ Dean Neu and Richard Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People* (Black Point, NS: Fernwood Publishing, 2003), 6.

Morris' work, Ray, Tough and Miller note that:

The treaty commissioner's attitude of complacent self-satisfaction with what he and other government negotiators had done oozes from the (volume) ...Morris...depicted Canada's motives as high-minded and wise and its treaty negotiators as paragons of patience, reasonableness and good humour. First Nations negotiators, on the other hand, come through as high-flying orators with unreasonable "demands" in negotiations, unless...they were portrayed as amenable and eager to sign treaties.²¹⁶

Thus they identify a consistent theme in the treaty record, one that glorifies government negotiators and disparages Indigenous peoples who dare to challenge the wisdom of the benevolent peacemaker. Brian Titley aptly sums up the Canadian philosophy that emerged with regard to Indigenous peoples as an odd mix of contempt, arrogance, denial, fear and guilt that are the hallmarks of Indian and later, Canadian Aboriginal policy.

Canadian Indian policy found its principal inspiration in the assumptions of nineteenth-century evangelical religion, cultural imperialism, and laissez-faire economics. The Indians were to be led, by whatever means possible, to "civilization."...Economic self-sufficiency was also part of this agenda...(to) ensure that the native population no longer constituted a burden on the public purse...The intolerant ethnocentrism of the Anglo-Canadian elite, which was closely tied to prevailing notions of racial superiority, precluded the possibility of the co-existence of culturally diverse peoples within the same political entity. Tolerance... would have implied a residue of self-doubt...(i)nstead, the lingering guilt arising from conquest and appropriation was assuaged by the myth of duty and the delusion of parental responsibility.²¹⁷

We see ample evidence to confirm his assessment in the treaty records created by government bureaucrats. These records reveal the extent to which the *administration* of Indian policy, rather than a commitment to nation-to-nation *treatymaking* became the true impetus for government officials. We see this clearly in British Columbia, where, with the exception of the Douglas treaties on Vancouver Island, and the extension of

²¹⁶ Ray, Miller, and Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*, 204-205.

²¹⁷ Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*, 201.

Treaty 8 into the northeastern part of the province, no historical treaties were negotiated.

The peculiar case of British Columbia with regard to the absence of treaty-making is well documented.²¹⁸ The dilemma created by the Indian Land Question remains unresolved today. It is clear from the historical record that Indigenous peoples fully expected to enter into treaties as had other nations in the east and on the prairies. In 1874, David Laird, who was then Minister of Interior, in a Memorandum submitted to the Committee of the Privy Council, set out the "present unsatisfactory state of the Indian Land Question in British Columbia."²¹⁹ Laird reported that the failure to address the well-founded grievances of Indigenous peoples was contributing to growing unrest amongst tribal groups, who were well aware that treaties were being negotiated on the prairies, "and naturally contrast this treatment with the policy meted out to themselves."²²⁰ He raised the spectre of a possible "Indian war" and was careful to place the blame for the situation on provincial officials. In contrast, he reassured his superiors, Canada understood that this was a "national question...(that) should be approached in a very different spirit, and dealt with upon other and higher grounds...the Dominion...has acted...in a spirit of liberality far beyond what the strict terms of the agreement required..."²²¹ Laird concluded with a recommendation that:

the Government of the Dominion should make an earnest appeal to the Government of British Columbia, if they value the peace and prosperity of their Province,- if they desire that Canada as a whole should retain the high character she has earned for herself by her just and honourable treatment of the red men of the forest, to reconsider in a spirit of wisdom and patriotism the land grievances of

²¹⁸ See for example, Robin Fisher, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890*, 2nd ed. (Vancouver: UBC Press, 1992); Tennant, *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989*; Harris, *Making Native Space*.

²¹⁹ David Laird, "Memorandum," *British Columbia, Papers Connected with the Indian Land Question, 1850-75*, (Victoria: R Wolfenden, 1874), 151.

²²⁰ *Ibid.*, 154.

²²¹ *Ibid.*, 154.

which the Indians of that Province complain...with good reason, and take such measures as may be necessary promptly and effectually to redress them.²²²

Clearly, the recommendation was to no avail, but what is interesting for the purposes of this study, is how Laird frames his report in the same self-congratulatory language that we see from Morris. The province should pattern its actions after the federal government, whose officials have been “wise,” “generous” and “just” in its dealings with Indigenous peoples. Therein lay the path to peace and prosperity. Provincial officials, however, had their own version of the benevolent peacemaker – one that saw no need for treaties.

In language befitting a benevolent peacemaker, George A. Walkem, Attorney General for BC in 1875, explained that from the province’s perspective, Indian unrest could be blamed directly on Confederation. Prior to 1871, according to Walkem, colonial Indian policy was based on “equal” treatment and encouraging Indians to assimilate into mainstream colonial society. As a result of Victoria’s generous, enlightened and humane policy towards Indigenous peoples, Walkem claimed:

the Colony was enabled on the day of Confederation to hand over to the trusteeship of the Dominion, a community of 40,000 Indians – loyal, peaceable, contented and in many cases honest and industrious...Since Confederation the Indians have undoubtedly become discontented. Hopes of visionary wealth to be acquired without labour, have been excited in the minds of some of the tribes; for it is a notorious fact that 80 acres of land were promised, of course without authority, to each head of an Indian family before the question of Reserves was even laid before the Provincial Government.²²³

Clearly, the colonial government had developed such a successful Indian policy that to adopt the federal practices which were deemed needlessly extravagant and only made content Indians into discontent ones, was to be discouraged accordingly. Thus the

²²² Ibid, 155.

²²³ George A. Walkem, "Report of the Government of British Columbia on the Subject of Indian Reserves," *British Columbia, Papers Connected with the Indian Land Question, 1850 – 75*, (Victoria: R. Wolfenden, 1874), 4-5.

province developed its own regional variation on the peacemaker myth which rested on the absolute denial of the presence and history of Indigenous peoples, their nations and their territories. In this regard, government officials like Walkem considered treaties unnecessary. But the narrative themes of the peacemaker myth remain consistent: the colonial government was generous and the Indian were passive beneficiaries of this largesse, unless provoked by “bad” influences.

Duncan Campbell Scott perhaps best exemplifies the growing emphasis on administrative and bureaucratic “solutions” to the Indian problem. Neu and Therrien point out that under “Scott’s regime, federal government initiatives such as residential schooling and the centralization and rationalization of the Indian department, along with more micro-bureaucratic routines, set the context for subsequent government-Indigenous relations.”²²⁴ Scott, who worked for the federal department of Indian Affairs, served as a treaty negotiator and eventually went on to direct the department at a pivotal time in settlement history.²²⁵ As he developed and implemented policies and programs that increasingly made Indigenous peoples the subjects of social engineering, the language and ritual of treaty-making recedes into the background to be replaced by a language of bureaucracy. By 1927, in the long jurisdictional war between federal officials and the provincial government in British Columbia, Scott no longer sees a need for treaty-making. Appearing before a Special Joint Committee of the Senate and House of Commons, convened in 1927, to inquire into the claims put forward by the Allied Indian Tribes of British Columbia, he provides a “pragmatic” economic rationalization as to why treaties are not necessary in the province. Titley concludes that:

²²⁴ Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*, 88-89.

²²⁵ Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*, 24. For an overview of Scott’s career, see Chapter 2.

The deputy superintendent, an experienced treaty-maker in his own right, was unable to see the symbolic importance of treaties to native people, and viewed the process purely in monetary terms...he...dazzle(d) the committee members with...examples of Ottawa's generosity...(pointing out that)...(t)he millions spent on the Indians of British Columbia since Confederation were proof that they had been as fairly treated as if they had signed a formal land surrender. Nor would a treaty, even at this late stage, be of much advantage to them. Treaty terms, were, after all, settled beforehand by the government and were not subject to meaningful negotiation.²²⁶

Thus we gain valuable insight into Scott's real view of treaty-making with Indigenous nations. He no longer felt it necessary to maintain even the pretense of establishing diplomatic relations with Indigenous peoples. Indigenous diplomacy, rooted in ritual practices of storytelling, ceremony and symbol, was deemed irrelevant. Apparently even the need to "obtain the consent...of (Her Majesty's) Indian subjects...to make a treaty...so that there may be peace and goodwill between them and Her Majesty, and that they may...count upon...Her Majesty's bounty and benevolence,"²²⁷ no longer applied west of the Rockies. Titley concludes that, in the matter of British Columbia, Scott's primary concern was maintaining administrative control over the Indian reserve lands and leases. "The rights and needs of native people were scarcely considered."²²⁸

Scott played a significant role in creating the peacemaker myth in political circles and in the public mind. He was more than a senior government bureaucrat, he was also a well-know poet and author. He shared his views on Indians with the Canadian public via the popular press and in his published works. In both, he reiterates the widely accepted belief that Indians were "dangerous yet childlike savages" in need of strong guidance

²²⁶ Ibid., 154-155.

²²⁷ Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, Including the Negotiations on Which They Were Based*. This was standard wording in the numbered treaties. See appendix for treaty texts.

²²⁸ Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*, 161.

from government officials and missionary teachers to curb their war-like tendencies. Not surprisingly, he conveyed the notion that “(o)nly the cleverest diplomacy...managed to keep the peace in those dangerous days.”²²⁹ Scott is both denigrator and “protector” of Indians, who are cast in multiple and sometimes contradictory roles as savage yet noble, warlike yet weak. Scott conveyed the mixed feelings and attitudes of a Settler society that was uneasy about its relationship with Indigenous peoples. Neu and Therrien observe:

Scott was not only a well-placed bureaucrat with a deep understanding, as an accountant, of the economic basis of his department’s actions, he was also a poet, essayist, prolific letter-writer and esteemed member of the Royal Society of Canada...he recorded history both through his subjective, aesthetic perspective and through his official government record-keeping...The juxtaposition of D.C. Scott’s bureaucratic initiatives with his literary output highlights both the parallels and the tensions between Indian department policies and societal discourses pertaining to Indigenous peoples...His government policies resonate with the nascent emphasis on accounting as an important mode of governance and foreshadow the use of these techniques in future settings.²³⁰

Thus government bureaucrats like Morris, Laird and Scott, who were tasked with addressing the “Indian problem,” also became the Indian experts of their day amongst politicians, government officials and the broader Canadian public. Their emphasis on their own diplomatic skills, coupled with ethnocentric, racist notions about the characteristics and traits of Indigenous peoples, laid the foundation of the peacemaker myth that is entrenched in the Canadian national identity.

The peacemaker myth is further reinforced by our strong belief that Canada’s history of colonization was a peaceful process than stands in stark contrast to the unchecked violence of the American frontier. Historian Richard Slotkin argues that in the United States, national identity is shaped by the frontier myth of “regeneration through violence,” wherein violence is the means by which “progress and civilization” advances.

²²⁹ Daniel Francis, *The Imaginary Indian: The Image of the Indian in Canadian Culture*, 7th ed. (Vancouver: Arsenal Pulp Press, 1992), 199.

²³⁰ Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*, 89.

Epitomized in the quintessential adventures of “heroes” such as “Indian fighters,” Daniel Boone and Davy Crockett, the myth “became the structuring metaphor of the American experience.”²³¹ In Canada, our national identity is shaped as the antithesis of this violence and the difference is attributed, in part, to the visible presence of British justice and our predisposition to make treaties rather than wage war against Indigenous peoples. In the United States, historian Frederick Jackson Turner’s highly influential thesis, published in 1893, proposed that the frontier was “the meeting-ground between savagery and civilization... wherein society and government are loosely or incompletely organized.”²³² In 1936, Canadian historian George F.G. Stanley applied aspects of Turner’s frontier thesis to the Canadian prairie west in *The Birth of Western Canada*, to describe “the problem of the frontier (as)... the clash between primitive and civilized peoples.”²³³ Although Stanley framed the settlement experience as a Turnerian clash of cultures, he did not attribute the fate of Indigenous and Metis peoples on the prairies to the westward march of frontier democracy and individualism. Rather he argued that their destruction was the inevitable result of British imperialism, similar to “...the fate of other peoples who unsuccessfully resisted the march of white civilization in Africa and Australia.”²³⁴ His account, as Ray, Tough and Miller note, drew heavily on the interpretations of treaty negotiations put forward by Morris, Laird and Scott, which he accepted uncritically. Ultimately, Stanley’s work, a standard text in university history courses well into the 1970’s and 1980’s, reinforced the Canadian conviction that had it not been for the

²³¹ Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier, 1600-1860* (Middletown: Wesleyan University Press, 1973), 5.

²³² Carl Berger, *The Writing of Canadian History: Aspects of English-Canadian Historical Writing: 1900-1970* (Toronto: Oxford University Press, 1976), 118.

²³³ Ray, Miller, and Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*, 207.

²³⁴ Berger, *The Writing of Canadian History: Aspects of English-Canadian Historical Writing: 1900-1970*, 175.

civilizing influence of British law and order, the creation of Indian reserves, and the superb diplomatic skills and generosity of government treaty negotiators, the Canadian West might have followed the more violent path embarked on in the United States.²³⁵ In his 1977 publication, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890*, Robin Fisher points out that comparative studies of frontier history such as Stanley's "produce(d) a smug self-satisfaction with the Canadian example, as if a comparative lack of interracial violence were sufficient evidence of a superior Indian policy."²³⁶ Several scholars now suggest that drawing this sharp distinction between the American and Canadian frontier is misleading at best. Alfred rejects Settler myths, including our belief that Canada is a superior place to live because of our "non-violent history" relative to the United States.²³⁷ Other revisionist scholars challenge *both* national mythologies "... by arguing that neither West lives up to its mythic billing. That is, Canada's "mild" West was wilder than the myth allows, while the American West was never as wild as its myth would have it."²³⁸ In a comparative assessment of the American and Canadian frontiers, Roger L. Nichols concludes that settlement on both sides of the border was characterized by violence and the devastating impacts of starvation and disease on Indigenous populations. In fact, he says that "Canada's relatively peaceful frontier dealings with its tribal groups lasted only until it sent Mounted Policemen west. Just over a decade after the Mounties marched onto the Plains, the 1885 fighting broke

²³⁵ Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, Including the Negotiations on Which They Were Based*, 287-288.

²³⁶ Fisher, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890*. xxvi.

²³⁷ Alfred, *Wasase: indigenous pathways of action and freedom*, 73.

²³⁸ Warren Elofson, *Cowboys, Gentlemen & Cattle Thieves: Ranching on the Western Frontier*. (Montreal: McGill-Queen's University Press, 2000); and "Law and Disorder on the Ranching Frontiers of Montana and Alberta/Assiniboia," in *Journal of the West* 42 (Winter 2003), 40-51. Quoted in Brian W. Dippie, "One West, One Myth: Transborder Continuity in Western Art," *American Review of Canadian Studies* 33, no. 4 (2003).

out.”²³⁹ At the same time, American historian John P. Bieter Jr., argues that contrary to the American myth of the rugged individualist, free to settle the Western frontier with few constraints of law and regulation, governments actually played a significant role as “protector, mediator or facilitator of western settlement and expansion,”²⁴⁰ in the United States. William H. Katerburg observes that although the popular Canadian Heritage Minutes series that has played in cinemas and on television project images of Mounties and officials as the “keepers of the Queen’s peace,” the reality was quite different. He suggests that “...the Canadian West was not so peaceful” if we factor in Metis uprisings, the execution of Louis Riel, and before that, a long history of Hudson’s Bay Company’s retaliation against Indigenous peoples who transgressed the White man’s law.²⁴¹

But despite these harsh realities, public perceptions of Canadians as historical peacemakers is rooted firmly in the Canadian public mind, reinforced in the self-congratulatory narratives produced by government bureaucrats and treaty negotiators, and in the valourization of the North-West Mounted Police (NWMP) in poetry and pulp fiction produced from the 1880’s to the 1940’s. Daniel Francis documents both themes in his popular history, *The Imaginary Indian: The Image of the Indian in Canadian Culture*. He argues that “(f)or many Canadians, the Mounties came to stand for the very essence of our national character – a healthy respect for just authority...(and) the saga of the NWMP ‘winning an empire for civilization’ soon became as important to the myth of Canadian nationhood as the Battle of the Plains of Abraham.”²⁴² Slotkin describes the links

²³⁹ Roger L. Nichols, "Myths and Realities in American-Canadian Studies: Challenges to Comparing Native Peoples' Experiences," *American Review of Canadian Studies* 33, no. 4 (2001), 597.

²⁴⁰ John Patrick Jr. Bieter, "Showdown in the Owyhees: Land, Myth and Government in the American West" (Ph.D dissertation, Boston College, 2004), 8.

²⁴¹ William H. Katerberg, "A Northern Vision: Frontiers and the West in the Canadian and American Imagination," *American Review of Canadian Studies* 33, no. 4 (2003), 543.

²⁴² Francis, *The Imaginary Indian: The Image of the Indian in Canadian Culture*, 61. See especially, Chapters 4 and 9.

between myth, history and the idealized heroes we create in metaphors about the West, and how they work to reinforce and justify our actions in the past and present.

Myth is invoked as a means of deriving useable values from history, and of putting those values beyond the reach of critical demystification. Its primary appeal is to ritualized emotions, established beliefs, habitual associations, memory, nostalgia...Myth does not argue its ideology, it exemplifies it. It projects models of good or heroic behavior that reinforce the values of ideology, and affirm as good the distribution of authority and power that ideology rationalizes...myth uses the past as an "idealized example" in which "a heroic achievement in the past is linked to another in the future of which the reader is a potential hero...The moral and political imperatives implicit in the myths are given as if they were the only possible choices for moral and intelligent human beings...(myths transform) secular history into a body of sacred and sanctifying legends.²⁴³

In the Canadian context, we mythologize treaty negotiators, bureaucrats and police officers as heroes who made the West safe for Settlers and also had a moral duty to "save" and "help" an endangered Indian population. Thus popular culture heroes, as Slotkin suggests, exemplify national values which are embedded in foundational myths that we do not question, but simply believe to be true.

Moreover, we must radically reassess the very ways in which we conceptualize violence with regard to the myth and history of Indigenous-Settler relations. Historian Elizabeth Furniss considers the implications of Canadian frontier mythology that, as her survey of regional history indicates, is predicated on the myth of benevolent conquest. Her work is particularly instructive for this study with regard to perceptions in Canadian Settler society about the relative absence of violence on the Canadian frontier. Furniss observes that Canadian history texts and popular pioneer histories take on a very different cast from that of our American counterparts.

²⁴³ Richard Slotkin, *The Fatal Environment: The Myth of the Frontier in the Age of Industrialization, 1800-1890* (New York: Atheneum, 1985), 19.

Just as the hero of many American frontier histories is the Indian fighter, and just as regeneration through violence is a central narrative theme of many American versions of the frontier myth, in Canada the dominant heroic figure is the Mountie, and a dominant narrative theme is what could be called “conquest through benevolence.” Canadian heroes do not inflict violence; instead, they impose peace, order, and good government on Aboriginal and non-Aboriginal people alike... This theme of conquest through benevolence... the continual assertion of history as a narrative of paternal domination of Aboriginal peoples – weaves in and out of Canadian literature and popular history... a long-term implication (of the myth) is one of silence regarding the realities of Canada’s own repression of Aboriginal people and a cloaking of forms of domination and power as paternalistic expressions of goodwill.²⁴⁴

From this perspective, we can see how the peacemaker myth feeds not the making of peace but the denial of history and the perpetuation of Woolford’s symbolic violence – affirmative bureaucratic strategies that reinforce colonial power relations, enacted through Redekop’s mimetic structures of violence – patterns of behaviour that develop their own mythos. Thus our violent interactions with Indigenous peoples are evident in the mutual patterns of behaviour we have established that are binary in nature (oppressor/oppressed, colonizer/colonized, perpetrator/victim).

Neu and Therrien take this a step further to make insightful connections between government administrative “solutions” to the Indian problem that employ seemingly innocuous bureaucratic processes, and cultural genocide. These “soft technologies” that combine accounting techniques and economic rationalizations with program and funding mechanisms actually constitute violence - a slow form of genocide against Indigenous peoples. To Settlers who cringe at the suggestion of genocide in relation to Canada, they offer a compelling argument:

When faced with the evidence of the Holocaust, we are almost always overwhelmed by its naked brutality; the degree of inhumanity expressed through such an undertaking seems incomprehensible. And yet the same undertaking

²⁴⁴ Furniss, *The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community*, 63.

applied to Indigenous peoples – stretched over a century or two, dressed in a rationale of progress, economics and civilization – seems somehow to lose this quality of brutality and becomes not only comprehensible but defensible...If genocide is gruesome in its lack of subtlety, then forced assimilation as a means of cultural annihilation is sly in its false generosity – the Indians were treated as children “for their own good,” the King “watchful over their interests and ever compassionate.”²⁴⁵

Reframed from this perspective, the conquest through benevolence - the essence of what I identify as the peacemaker myth – that remains at the heart of Canadian history is filled with violence not peace. Subscribing to the myth has supported and reinforced a strong tradition of paternalistic, guilt-driven assimilationist Indian law and policy that we have yet to overcome. Having created dependency and dysfunction in Indigenous nations by ignoring treaties in favour of prescriptive legislation, law and policy designed to “regulate” and “educate” them, we have tasked ourselves ever since with the mission of “fixing” the Indian problem. Nor has the power of the myth diminished over time.

The peacemaker myth continues to be reinforced and perpetuated in today’s popular history that is no less stereotypical than the pulp fiction described by Francis. The myth is retold, for example, in the award-winning popular CBC television series *Canada: a People’s History*, watched by millions of Canadians when it first aired in 2001. A best-selling book, video and website continue to make this version of our national history readily available to the general public. On the website, the peacemaker myth is told in a series of narrative segments, the first of which poses the question “Pioneers Head West: Can Ottawa settle the frontier without bloodshed?” It describes how the “Canadian government had watched the carnage unfold in the American West, when settlers brazenly flocked into the untamed land, provoking bloody and expensive Indian wars...Canada’s answer to the western dilemma; bring peace and order to the West

²⁴⁵ Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*, 25.

before the settlers arrive.” This was done, according to the chroniclers, by creating the Northwest Mounted Police (NWMP), who “developed good relations with the natives and encouraged them to negotiate with the Canadian government. During the 1870’s, the natives signed a series of treaties, which transferred land to the Canadian government and transferred Plains Indians onto reserves.” According to the website, this conflict prevention strategy was so effective that “[b]y 1880, the frontier had peace and order and was ready for white settlement.”²⁴⁶ In “Treaties Signal End: Natives sign over land and watch a way of life slip away,” Indigenous peoples are depicted as “a dying race...weakened by whiskey and disease,” who are increasingly dependent on a benevolent government that was “eager to arrange treaties with the natives. It wanted to avoid bloody and costly Indian wars as the west opened for settlement.”²⁴⁷

As the immense popularity of *Canada: A People's History* shows, the peacemaker myth is integral to a national historical narrative that remains deeply ingrained in the Canadian mind, despite revisionist academic history that has questioned it.²⁴⁸ The pull of a “unifying” national history remains strong, despite J.R. Miller’s claim that Indigenous peoples’ history has “come in from the margins” to claim a more prominent place in the national story.²⁴⁹ In his 1998 publication, *Who Killed Canadian History*, historian Jack

²⁴⁶ Canadian Broadcasting Corporation, "Pioneers Head West: Can Ottawa Settle the Frontier without Bloodshed?" http://www.cbc.ca/history/?MIval=Section.html&series_id=1&episode_id=10&chapter_id=3&page_id=0&lang=E. (accessed August 3, 2005)

²⁴⁷ Canadian Broadcasting Corporation, "Treaties Signal End: Native Sign over Land and Watch a Way of Life Slip Away" http://www.cbc.ca/history/?MIval=EpisContent.html&series_id=1&episode_id=10&chapter_id=2&page_id=3&lang=E. (accessed August 3, 2005). See also Canadian Broadcasting Corporation, "Mounties Saddle Up: A Legendary Police Force Is Born on the Western Frontier." http://www.cbc.ca/history/?MIval=EpisContent.html&series_id=1&episode_id=10&chapter_id=3&page_id=1&lang=E. (accessed August 3, 2005).

²⁴⁸ Lyle Dick, "'a History for the New Millennium': Canada: A People's History," *Canadian Historical Review* 85, no. 1 (2004), 95.

²⁴⁹ J. R. Miller, *Reflections on Native-Newcomer Relations: Selected Essays* (Toronto: University of Toronto Press, 2004), 13-36.

Granatstein clearly struck a deep chord with Canadians in his traditionalist lament for a lost national political history that teaches Canadians to celebrate visionary political leaders and great accomplishments of the past. He lays the blame for this loss squarely at the feet of social historians whom he accuses of indoctrinating students with a vision of Canadian history that “focuses on the maltreatment of aboriginals and immigrants, the abuse of women, and the evils of capitalism... (f)ar from teaching patriotism, our schools now focus almost exclusively on historical ills... What is happening in our schools is political indoctrination, grounded in unbalanced historical nonsense.”²⁵⁰ But despite Granatstein’s claim, historian Lyle Dick argues that the desire for a unifying national narrative of this sort remains strong in the Canadian public.

In a critical essay on *Canada: A Peoples’ History*, Dick suggests that the reason this multimedia history succeeds so well is because it taps into a deep reservoir of myth that exists in the Canadian psyche. “The story connects with its audience... (by) characteriz(ing) Canadian history as a story of ‘redemption’ that, while not explicitly religious, uses narrative devices such as prophecy to suggest a biblical inevitability to the history that unfolds.”²⁵¹ Not surprisingly, all the old stereotypes about Indigenous peoples are reinforced. Equally disturbing, Dick concludes that “(t)he narrative significance of these assorted negative characterizations... is to discredit Aboriginal claims to western lands in the nation-building era of Canada’s expansion.”²⁵² Thus the narrative reinforces Settler justifications for appropriating Indigenous lands by framing our actions as a “predestined” moral and religious imperative to “claim the land in the name of humanity,” as 19th century prairie feminist, Nellie McClung described Western

²⁵⁰ Jack Granatstein, *Who Killed Canadian History?* (Toronto, On.: Harper Collins Publishing, 1998); Jack Granatstein, *How We Teach History Matter Most* (Great Canadian Questions, 2004) http://www.greatquestions.com/e/q6_granatstein_2.html. 2 (accessed on October 23, 2004)

²⁵¹ Dick, “a History for the New Millennium: Canada: A People’s History,” 95.

²⁵² *Ibid.*, 102.

settlement.²⁵³ Although its creators claim to be telling history “from the bottom up,” in actuality the narrative is structured along traditional historical lines, filled with visionary Great White Man heroes who must overcome great obstacles to fulfill their national dream. Moreover, the story describes a series of epitomizing moments that reinforce the importance of establishing the Settler imprint upon the land – Confederation, western settlement, the building of the railway and so on. Historian Timothy Stanley, writing from an anti-racist perspective, points out that traditional nationalist history ignores the very real history of racism in Canada, ultimately supporting the “White denial” of history which excludes the historical experience of Indigenous peoples and ethnic minorities. In his critique of Canadian historical writing more generally, Stanley says that most studies of racism focus almost exclusively on accounts of the other, but “not as a phenomenon that (also) shaped ‘whiteness’ and Anglo-Europeans’ power and privilege.”²⁵⁴ By focusing on the other, while exempting ourselves from critical analysis and reflection, Settlers cling to the comfortable notion that we know our past and that it is behind us. With regard to our relationship with Indigenous peoples, nothing could be further from the truth.

As we have seen, the peacemaker myth reinforces colonial shapeshifting by masking symbolic, bureaucratic violence under the guise of benevolence and generosity. Mid-19th century government treaty negotiators proved the old adage that the pen is mightier than the sword. Speaking a language of peace as they gave chiefs the treaty pen to touch, signaling their acceptance, the Settler government needed no weapons save their false words. Indigenous diplomats, who had brought their own diplomatic principles and ceremonial practices to the negotiations, had no way of knowing that peacemaking as they understood it had been perverted into an act of symbolic violence. In the case of

²⁵³ Ibid., 98.

²⁵⁴ Stanley, “Why I Killed Canadian History: Conditions for an Anti-Racist History in Canada,” 90.

treaties, this violence was expressed through Western ritual involving the “the force of the written document.”²⁵⁵ For government negotiators it was the touching of the treaty pen or the signing of the “x” on documents - not the smoking of the peace pipe, the giving of gifts, the prayers, the feasting, singing and dancing - that secured treaties according to the only law they recognized, Western law. As their military power and economic relevance waned in the eyes of government officials, police officers, and missionaries, Indigenous peoples who had formerly been *respected* as military allies and economic partners were transformed into “child-like” victims of progress who now must be *protected*. Although colonial officials had perhaps always engaged in Indigenous diplomatic practices as a necessary part of the fur trade and empire building, by the mid-19th century, these old diplomatic alliances were seen as less critical.²⁵⁶ From their perspective, participating in sacred ceremonies was seen more as a preliminary nuisance than a legal requirement for treaty-making.

Secure in their own cultural and moral superiority, government officials and missionaries alike saw little of value in Indigenous spiritual and diplomatic practices. Moreover, the ceremonial life of Indigenous peoples was seen as highly problematic in the colonial project of transforming savages into civilized citizens. The growing conviction that all things Indigenous must be eradicated reached its’ pinnacle with the banning of sacred Indigenous ceremonies such as the potlatch and the sun dance.²⁵⁷ The writings of prominent government officials like Morris and Scott reinforced popular notions of Indigenous “inferiority,” and the “chaos” and “backwardness” of tribal life when compared to the “superiority” and legitimacy implicit in White government, law

²⁵⁵ Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*, 72.

²⁵⁶ For an overview on fur trade diplomacy, see Ray, Miller, and Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*. Chapter 1.

²⁵⁷ Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. See especially, Chapter 9, “Senseless Drumming and Dancing.”

and treaty-making practices. These works, both as government records and as portrayals of Indians in popular print, were highly influential in shaping Settler ideas and stereotypes about Indigenous peoples that persist in more muted, but equally significant forms today, under a thin veneer of “cultural sensitivity” and “political correctness.” By erasing Indigenous diplomacy, law and peacemaking practices from the public consciousness, Settlers justify in our own minds the historical appropriation of Indigenous lands and resources and the perpetuation of contemporary colonial relations. The national history of Indigenous-Settler relations as we currently tell it is the colonizer’s story and in it we cast ourselves in a positive light as benevolent peacemakers. But there is another peoples’ story, one that puts us where the light is not so flattering and our flaws are revealed. What is the Indigenous countermyth of history, diplomacy, treaties and peacemaking?

Indigenous Diplomats: The Countermyth of Indigenous Diplomacy

Indigenous diplomats used metaphors, gestures, song, dances, and other storytelling devices to enable their potential treaty partners to imagine a world in which the differences of “tribe, religion, race, customs, and the like” could be transcended. . . .storytellers recognized that connection with others can only be achieved by increased sensitivity to their sufferings as fellow human beings. This goal, as they sought to educate their treaty partners, could best be achieved by acts of the imagination, evoked by the power of telling stories.²⁵⁸

In *Linking Arms Together: American Indian Treaty Visions of Law and Peace*, Lumbee legal scholar, Robert A. Williams, Jr. makes a powerful case not only for the study of Indigenous diplomacy in its own right, but because its unique and rich legacy has relevance for today’s global conflicts between and amongst different peoples. By placing Indigenous peoples at the centre of his analysis, he challenges prevailing Settler mythology in which we have cast ourselves as peacemakers, thereby denying and

²⁵⁸ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*. 92-93.

silencing a substantive Indigenous history of law, diplomacy and peacemaking. Williams wants to decolonize North American history, making space for Indigenous law and diplomacy to “reveal to us the vitally needed metaphors and language of new legal visions we require for our own emerging multicultural world of human diversity and conflict.”²⁵⁹ Alfred also suggests that the seeds of such recognition are being sown on an international scale as legal scholars “are now beginning to see the vast potential for peace in indigenous political philosophies.”²⁶⁰ In this way, Indigenous scholars challenge Settler ethnocentric assumptions about Indigenous diplomacy, law and peacemaking practices. We begin to understand the ceremonial practices described by colonial treaty negotiators, not as “exotic or quaint customs” but as expressions of a deep spiritual and philosophical knowledge about how to make peace in the midst of human conflict. John Borrows explains:

Indigenous law originates in the political, economic, spiritual, and social values expressed through the teachings and behaviour of knowledgeable and respected individuals and elders. These principles are enunciated in the rich stories, ceremonies, and traditions within First Nations. Stories express the law in Aboriginal communities, since they reflect the accumulated wisdom and experience of First Nations conflict resolution... They can be communicated in a way that reveals deeper principles of order and disorder, and thereby serve as sources of normative authority in dispute resolution.²⁶¹

Reframed this way, Settlers must question our own cultural understandings about what constitutes peace and what principles and practices should guide us in establishing and maintaining decolonizing peaceful relationships with Indigenous peoples. In part, we can

²⁵⁹ Ibid., 11. See also, Vine Deloria, Jr. and Raymond J. DeMallie. *Documents of American Indian Diplomacy: Treaties, Agreements and Conventions, 1775-1979*. (Norman: University of Oklahoma Press, 1999), 6-8.

²⁶⁰ Alfred, *Peace, Power, Righteousness: an indigenous manifesto*, 63.

²⁶¹ John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002), 13.

do this by exploring the historical literature on treaties and peacemaking.

Linking back to the importance of myth and ritual in restorying history and peacemaking, the countermyth of Indigenous diplomacy presents a very different understanding of Indigenous-Settler relations. Revisionist studies emerged in the 1970's and 1980's as Indigenous peoples began to articulate the spirit, meaning and intent of treaties, diplomacy and peacemaking from their own perspectives, and non-Indigenous scholars explored new theories and methodologies to reassess the role of Indigenous peoples in the political, economic and social relations of the new empire.²⁶² Viewed through this alternative lens, greater degrees of both Settler duplicity and Indigenous agency are revealed. Indigenous understandings of treaties and peacemaking from the Encounter era to the present demonstrate the richness of Indigenous political philosophies and diplomacy and provide a critical corrective to the Settler peacemaker myth. This small but significant body of revisionist scholarly works cures Settler mythological amnesia by documenting the centrality of Indigenous peoples' political philosophies and diplomacy throughout what is now called North America. In doing so, they focus on the history of treaties and Indigenous peoples' proactive role in diplomacy, negotiations and peacemaking. Two key themes relevant to this study emerge from this literature. First, peacemaking is rooted deeply in the spirituality, political philosophy and law of every Indigenous nation, expressed in stories, ceremonies, symbols and rituals. Second, Indigenous diplomacy formed the foundations of a unique North American society, (what American historian Richard White refers to as the "middle ground," of Indigenous-Settler relations that emerged during the Encounter era²⁶³) that holds teachings for us today about how to use myth, history and ritual to negotiate intercultural relationships, build

²⁶² Ray, Miller, and Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties*, 204-208.

²⁶³ Richard White, *The Middle Ground: Indians, Empires & Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 1991).

alliances and resolve conflicts in order to create just and peaceful co-existence amongst different peoples.

Scholars who write about Indigenous diplomacy refute earlier stereotypical themes in historical writing that depict “savages without civilization”²⁶⁴ to reveal a rich documentary and oral archive in which Indigenous peoples are full participants in colonial diplomatic and political life. They question national histories that view colonial officials as omnipotent actors and recognize the complexity of colonial relations in which all sides had various degrees of political agency. Richard White, describes the multi-cultured world of the Great Lakes region from the 1600’s to the 1800’s as “the middle ground” - a polygot meeting place, where interactions between Algonquian peoples and Europeans were often violent, but also “created new systems of meaning and exchange” amongst diverse peoples.²⁶⁵ Rejecting the notion that Europeans were the dominant force in early Indigenous-Settler relations, White defines the features of the middle ground as:

...a creation of peoples in direct contact. It was not a creation of European savants or distant imperial administrators...because neither side could gain their ends through force, Europeans and Indians had to attempt to understand the world and reasoning of others...(p)articularly in diplomatic councils, the middle ground was a realm of constant invention, that once agreed upon by all sides, became convention. The central and defining aspect of the middle ground was a willingness, born of necessity, for one set of people to justify their actions in terms of what they perceived to be their partners’ cultural premises. In seeking to persuade others to act, they sought out congruence, either perceived, or actual, between the two cultures. The congruences arrived at often seemed – and –indeed, were – the results of misunderstandings or accidents.²⁶⁶

²⁶⁴ For an overview of this early historical writing in the Canadian context, see Bruce Trigger, *Natives and Newcomers: Canada's Heroic Age Reconsidered* (Kingston: McGill-Queen's University Press, 1985), Chapter 1.

²⁶⁵ Richard White, *The Middle Ground: Indians, Empires & Republics in the Great Lakes Region, 1650-1815*, x.

²⁶⁶ Richard White, "The Fictions of Patriarchy: Indians and Whites in the Early Republic," in *Native Americans and the Early Republic*, ed. Frederick E. Hoxie, Ronald Hoffman, and Peter J. Albert (Charlottesville, Va.: University Press of Virginia, 1999), 66.

White's middle ground emerges in a particular place and time, namely the Great Lakes region prior to 1812, after which it disappeared. But at this juncture, he says, power relations are balanced, agreement is reached through consensus, and conventions are created to implement treaties.

In his study of Iroquois diplomacy in the treaties of the Six Nations, Francis Jennings points out that although scholars failed to recognize Indigenous law and governance systems, the "kings' agents in America knew how to distinguish between theory and practice...(they) called the Indian governments 'nations' and made treaties with them...refut(ing) the no-true-government on their own face."²⁶⁷ In other words, at a time when the balance of power lay in Indigenous hands, government officials were compelled to negotiate with Iroquois diplomats on more equitable terms. William Fenton, Michael K. Foster, and Richter emphasize the flexibility and adaptability of Iroquois diplomats, characteristics that continue to the present. Fenton, for example, notes that "(n)ot only are key parts of the paradigm of condolence performed in some of the earliest treaties, but the negotiations are embellished by the metaphors in which the later (modern) ritual is couched."²⁶⁸ In Foster's study on the function of wampum in treaty diplomacy, his interviews with the Cayuga chief Jacob Thomas of Six Nations reveal that Thomas not only understood the meanings of various wampum belts, and could recall the terms of past agreements, but he also "had a detailed grasp of the procedures for conducting a council with White government officials...(in which) one must be prepared to actually renew these agreements which, as far as the chiefs were concerned, were still

²⁶⁷ Francis Jennings and et al, eds., *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League* (Syracuse, NY: Syracuse University Press, 1985), xiv-xv.

²⁶⁸ William Fenton, "Structure, Continuity and Change in the Process of Iroquois Treaty Making," in *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*, ed. Francis Jennings, et al. (Syracuse, NY: Syracuse University Press, 1985), 4.

in effect.”²⁶⁹ The Iroquois had protocols to establish and renew treaty relationships over time that are reflected in the protocols, rituals and metaphors of the Condolence ceremony. “We see this in the emphasis in council protocol upon clearing obstructions from the path, polishing the covenant chain, building up the council fire, and the procedures at the Wood’s Edge. The metaphors of the fire, the path and the chain reveal...the Iroquoian view (that) the alliance was naturally in a state of constant deterioration and in need of attention.”²⁷⁰ The importance of renewal, within the context of structural continuity and change, is reflected not only within Iroquois society, but in the relationships they establish with colonial officials, who viewed treaties as contracts that one signed remained in effect until specifically changed.²⁷¹

Revisionist scholars attempt to understand how the treaty institution actually worked, and they recognize the significant influence of Iroquois political structures, language, ritual and metaphor in colonial treaty diplomacy and negotiations. Richter points out that:

Iroquois diplomats adapted the language and rituals of the Great Peace to create the protocol of intercultural diplomacy...the projection of Great Peace ceremonial practices to Iroquoian-European diplomacy seems to have begun with the Mohawks...in 1645. From that date forward, words of peace, rituals of condolence, and exchanges of gifts dominated the practice of European-Indian diplomacy in the Northeast.²⁷²

Thus we begin to see a very different picture of treaty-making in North America – one that

²⁶⁹ Michael K. Foster, "Another Look at the Function of Wampum in Iroquois-White Councils," in *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*, ed. Francis Jennings et al (Syracuse, NY: Syracuse University Press, 1985), 101.

²⁷⁰ *Ibid.*, 110.

²⁷¹ *Ibid.*

²⁷² Daniel K. Richter, "Ordeals of the Longhouse: The Five Nations in Early American History," in *Beyond the Covenant Chain: The Iroquois and Their Neighbours in North America, 1600-1800*, ed. Daniel K. Richter and James Merrell (Syracuse, NY: Syracuse University Press, 1987), 22.

reveals the extent to which the paradigm of the Condolence ceremony, wampum belts, the Covenant Chain and the imagery of "linking arms,"²⁷³ expressed as ritual and metaphor in Iroquoian diplomatic relations defined Encounter era diplomacy and treaty protocol. When Indigenous peoples held the balance of power, colonial officials were compelled to accommodate and adapt to Indigenous law, diplomacy and peacemaking practices.

Within this context, a broader countermythology of Indigenous diplomacy is now emerging in works that mark a dramatic theoretical and methodological shift towards a much deeper understanding of Indigenous political philosophy, law, diplomacy and peacemaking practices. Although these scholars do not deny that trade and military alliances were important, they argue that Indigenous diplomacy was guided by much broader cultural, political and spiritual visions. This literature focuses on intercultural relations with a view to understanding treaty-making from an Indigenous philosophical perspective. They examine the dialogical framework in which treaties were created and sustained to analyze treaty narratives as social discourse, to explain how "social subjectivity is formed, internalized, contested and re-formed through struggles of competing discourses."²⁷⁴ Treaties form the framework for an ongoing process of intercultural negotiations in which power relations and representational authority are key determining factors. The Encounter era is particularly interesting, Williams suggests, because Indigenous peoples' capacity to influence this discourse was especially strong, making all groups more equal. "No one group's narratives occupied a privileged dominant position... (t)hroughout the treaty literature of the period... indigenous and European can be found negotiating with each other at arm's length about competing

²⁷³ Mary Druke, "Linking Arms: The Structure of Iroquois Intertribal Diplomacy," in *Beyond the Covenant Chain: The Iroquois and Their Neighbours in Indian North America, 1600-1800*, ed. Daniel K. Richter and James Merrell (Syracuse, NY: Syracuse University Press, 1987), 29-39.

²⁷⁴ Mariana Valverde, "As If Subjects Existed: Analyzing Social Discourse," *Canadian Review of Sociology and Anthropology* 28, no. 2 (1991), 176.

visions of peace and justice that would govern their relations...these groups, more often than our histories might suggest, agreed to create multicultural alliances of law and peace.”²⁷⁵ These alliances, says Williams, created a “window of opportunity’ wherein a new North American society was shaped by Indigenous law, diplomacy and peacemaking practices. From this perspective, treaties are paradigms for multicultural connections that are expressed metaphorically through story, ceremony and ritual.

In a reassessment of the Royal Proclamation of 1763, John Borrows rejects the colonial interpretation that it was created unilaterally by British colonial officials. Rather he argues that Indigenous peoples played an active role in negotiating its ratification. He says that the Royal Proclamation can only be understood fully when juxtaposed with the Treaty of Niagara of 1764. The Proclamation is simply the written text of a treaty that was negotiated amongst nations, using Indigenous diplomatic practices – speeches, gift-giving and wampum. Borrows points out that the subsequent narrow legal interpretation of the Royal Proclamation, which is seen to assert British sovereignty even as it required the Crown to make treaties, had significant material consequences for Indigenous nations. In contrast, Indigenous nations viewed the Proclamation as the framework for a relationship that “mandates colonial non-interference in the land use and governments of First Nations...(and) they regarded the agreement...as one that affirmed their powers of self-determination.”²⁷⁶ Ultimately, the intercultural relations negotiated in the Encounter era resulted in what Matthew Dennis describes as a “discourse of confusion,”²⁷⁷ In later

²⁷⁵ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 10-11. See also, J. Edward Chamberlin, "Culture and Anarchy in Indian Country," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity and Respect for Difference*, ed. Michael Asch (Vancouver, BC: UBC Press, 1997); Hall, *The American Empire and the Fourth World*, especially Chapter Five, "The Bowl with One Spoon."

²⁷⁶ Borrows, "Wampum at Niagara: The Royal Proclamation, Canadian Legal History and Self-Government," 165.

²⁷⁷ Matthew Dennis, *Cultivating a Landscape of Peace: Iroquois-European Encounters in Seventeenth Century America* (Ithaca, New York: Cornell University Press, 1993), 125.

years, Indigenous peoples would find it increasingly difficult to make their voices heard and their history and presence visible as the Settler version of the treaty story dominated mainstream society, reinforced in law and Indian policy.

Whereas much of literature on the Encounter era focuses on dispelling Settler legal interpretations of treaties, a few authors explore the deeper philosophical and spiritual underpinnings of Indigenous diplomacy to view it as an extension of the Iroquoian Great Law of Peace. Dennis confronts the old image of the imperial Iroquois as savage warriors to argue that “historians should attempt to shift the angle of vision and examine the view from Iroquoia in order to understand Iroquois culture and its deep appreciation of peace.”²⁷⁸ Williams wants to recover the history of American Indian diplomatic visions of law and peace in order to address contemporary policy issues.²⁷⁹ Both focus on the centrality of the Peacemaker’s Journey, the Great Law of Peace, and the Condolence ceremony as key components of Iroquoian diplomacy. Within this philosophical and cultural context, we understand that Iroquois diplomats were acting upon a moral imperative to cultivate peace. Williams explains that:

The Deganawidah epic, the Great Peace, and the league’s inaugurating rituals contained in the Condolence Council were handed down to subsequent generations as part of a fundamental law emerging out of the period of chaos and crisis during which the league itself was founded... Thus, the good news of Deganawidah’s message envisioned a multicultural community of all peoples on earth, linked together in a solidarity under the sheltering branches of the Tree of Great Peace...the sacred rituals of the Condolence Council...thus became part of a diplomatic language that regarded the negotiation of treaties with different peoples as the fulfillment of a divine command...Offering strings of wampum and performing other rituals of condolence as instructed by the prophet Deganawidah, Iroquois diplomats situated their treaty relations with each other in the realm of a transcendent, sacred vision of all humankind as one.²⁸⁰

Dennis’ cultural history concentrates on seventeenth century relationships amongst the

²⁷⁸ Ibid., 6.

²⁷⁹ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 4.

²⁸⁰ Ibid., 60.

Iroquois, Dutch and French, during which time Iroquois diplomacy was conducted through the extension of kinship relations wherein new people became family. Thus they were brought into the Longhouse to live as one peoples. This was a natural consequence of extending the principles of the Great Law of Peace to outsiders. Dennis argues that when the Iroquois were unable to create a lasting peace with the French, they adjusted their actions accordingly:

Holding firm to the essence of Deganawidah's dream, and forging new mechanisms to make it manifest in their world, the Iroquois began to develop a new *foreign* policy. Accepting fictive, or symbolic, over literal kinship, and social separation rather than amalgamation, the Five Nations increasingly expected less of their allies, and sought more self-consciously to preserve their own autonomy.²⁸¹

Dennis does not suggest that treaty discourse became superficial rhetoric, but that Iroquois diplomats grew more cautious, recognizing that colonial officials had a different agenda and did not necessarily share their vision of law and peace. The Condolence ceremony and the metaphoric use of language, symbol and ritual remained firmly at the root of Iroquois diplomacy and intercultural treaty discourse. Williams observes that the Iroquois had the capacity to respond creatively to change, while retaining their philosophical and spiritual beliefs and political traditions. He describes the richness of the Indigenous language of diplomacy that prevailed in a rapidly changing environment.²⁸²

Williams tells us that his intention in writing about Indian visions of law and peace is more than an esoteric exercise in historical legal scholarship.²⁸³ He argues that American Indian visions of law and peace can teach us much about learning how to live

²⁸¹ Dennis, *Cultivating a Landscape of Peace: Iroquois-European Encounters in Seventeenth Century America*, 268.

²⁸² Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600-1800*, 38.

²⁸³ *Ibid.*, 4.

together in peaceful co-existence. He wants “to reveal to us the vitally needed metaphors and language of new legal visions we require for our own emerging multicultural world of human diversity and conflict.”²⁸⁴ Taiaiake Alfred’s 1999 publication, *Peace, Power, Righteousness: an indigenous manifesto*, brings us full circle, when as a Kanien’kehaka (Iroquois) scholar, he uses the ritual structure of the Condolence ceremony as a metaphor to frame his work as a transformative process that acknowledges anger and loss, promotes healing and empowerment, and ultimately restores clarity of reason and vision. He explains that:

The Condolence ritual pacifies the minds and emboldens the hearts of mourners by transforming loss into strength. In Rotinohshonni culture, it is the essential means of recovering the wisdom seemingly lost with the passing of a respected leader. Condolence is the mourning of a family’s loss by those who remain strong and clear-minded. It is a gift promising comfort, recovery of balance, and revival of spirit to those who are suffering.²⁸⁵

Thus he explores the themes of the book – the impacts of colonization, Indigenous political traditions and leadership, self-conscious traditionalism and the rebuilding of Indigenous governance and self-determination to deliver a powerful message to Indigenous and non-indigenous readers. Invariably, he draws upon the diplomatic traditions of a long line of diplomats who believed that “leadership consists in invoking the power of reason, and that the human capacity to achieve harmony is best developed through pacification and persuasion.”²⁸⁶ Together these works provide a very different perspective on the history of Iroquois diplomacy – one that is far removed from the violent images that Settlers have created in which we dehumanize and denigrate those whom we do not understand.

²⁸⁴ Ibid., 11.

²⁸⁵ Alfred, *Peace, Power, Righteousness: an indigenous manifesto*, xii.

²⁸⁶ Ibid., xix.

If the literature on Iroquois diplomacy provides us with a vision of how Indigenous law, diplomacy and peacemaking practices might help us to create a just and peaceful co-existence amongst diverse peoples, then the Blackfoot Treaty 7 elders describe the obstacles that stand in the way. If Encounter era treaties illustrate the potential for treaties to frame a principled relationship, then the numbered treaties show us how colonialism subverts a true treaty relationship. The controversy that surrounds the history of Treaty 7 is representative of similar conflicts affecting the treaties rights of Indigenous peoples everywhere. We know that Indigenous peoples and governments have conflicting ideas and understandings about the spirit and intent of treaty-making. The consequences of this debate, however, go far beyond the written pages of academic publications or legal arguments in court rooms. Rather they play out in the hearts, minds and lives of the Blackfoot peoples who continue to inhabit their traditional territories in what is now known as the province of Alberta. The elders tell us the story of what went wrong in the treaty relationship they established with Canada, of how treaties were not honoured or implemented, and of how government policy and legislation overrode the spirit and intent of the treaties.

In publishing their story of Treaty 7, the elders want Canadians to hear the whole story about the negotiations that occurred at Blackfoot Crossing in 1877. Contemporary conflicts over treaty, land and resource rights are based on our historical understanding of the treaties. The Blackfoot elders emphasize that from their perspective, their nation signed a peace treaty with the British Crown. Peigan elder Tom Yellowhorn summed up the feelings of the Blackfoot nations with regard to the treaty they had negotiated in good faith with government negotiators.

the Peigan's initial enthusiasm for the peace treaty grew into bitterness when the seriousness with which they took the agreement was later not reciprocated by the government. In subsequent years, the Peigan were "sorry that they made this treaty." For the Peigan the ceremony of peace making was solemn, undertaken

with much gravity, especially when they smoked the peace pipe...(we thought) that the Queen “was going to treat us good.”...(but) in the wake of the treaty “they put up the Indian Act to punish Indian people and protect the White man.” In fact, the Indian Act of 1876 had already been enacted.²⁸⁷

Despite intertribal diversity that exists amongst Indigenous nations, the treaty principles and practices of Indigenous diplomats in the Encounter era and those of the Treaty 7 Chiefs share common elements. Diplomatic relations throughout Turtle Island are based on shared protocols, metaphors and rituals integral to international Indigenous diplomacy. The language and behaviours associated with treaty-making – storytelling, the smoking of the peace pipe, gift-giving, feasting – create a sacred environment in which trust is established and mutual obligations are agreed upon and witnessed. Treaties are sacred peace agreements, negotiated, witnessed and confirmed according to Indigenous law, through appropriate peacemaking practices. This of course is also true in what is now British Columbia, where even though governments refused to make treaties, a long history of Indigenous law, diplomacy and peacemaking practices continues to exist.

In British Columbia, Indigenous peoples’ long struggle for recognition of their rights has always been highly political and there is no consensus amongst various First Nations as to the best course of action to pursue. Some are involved in the BC Treaty process while others reject it as a process with fundamental political, legal and socioeconomic flaws. Aboriginal litigation has played a key role in British Columbia with regard to settling historical claims. Within this context, it is important to consider how myth and history play out in the courtroom in establishing the presence of Indigenous history, law and diplomacy. The 1991 *Delgamuukw* trial in British Columbia is one example of contemporary attempts by Indigenous peoples to share their visions of law and peace with Settler courts. It also reveals, through Chief Justice Alan McEachern’s

²⁸⁷ Treaty of Tribal Council et al., *The True Spirit and Intent of Treaty 7*, 115.

judgment, the persistent strength of Settler myths and rituals. If we look at the *Delgamuukw* case as a representative example, we see more clearly how history and the law are implicated in the colonial project. Although many aspects of litigation are highly problematic, the adversarial process has precipitated the development of new theoretical frameworks and methodologies in the discipline of history, resulting in new interpretations of the past. And Indigenous peoples have been at the forefront of pushing these cultural, legal and historical boundaries.²⁸⁸ But *Delgamuukw* also demonstrates how difficult this endeavour has been and how high the cost for Indigenous peoples, both in terms of legal risk and the human and financial resources required to engage in the litigation process.²⁸⁹

Nevertheless, the Gitksan and Wet'suwet'en viewed the courtroom as a place to educate the Canadian courts about their histories, laws, diplomatic protocols and governance systems. From this broader perspective – that of two nations asserting their jurisdictional authority over their lands and resources, the Gitksan and Wet'suwet'en took a great diplomatic risk. They brought their “treasure boxes of histories” – their *adaawk* and *kungax* into a Western courtroom intending to express them in the usual way, through the stories, ceremonies, songs and rituals of the Feast Hall. In doing so, they opened them up to Settler scrutiny. Skanu'u (Ardythe Wilson) explained their reasons:

There was great reluctance when we saw the history of the courts in our territories – we were always on the losing end. But in considering this situation, the Chiefs said, what other choice do we have?... (but) there was great uncertainty. We knew

²⁸⁸ Arthur Ray, “Native History on Trial: Confessions of an Expert Witness”, *The Canadian Historical Review* 84, no.2 (2003), 56.

²⁸⁹ The literature on *Delgamuukw* is extensive, but see Fisher, “Judging History: Reflections on the Reasons for Judgment in *Delgamuukw* V. B.C.”; Dora Wilson-Kenni, “Time of Trial: The Gitksan and Wet'suwet'en in Court,” *BC Studies*, no. Special Issue No. 95 (1992); Culhane, *The Pleasure of the Crown: Anthropology, Law and First Nations*; Neil Sterritt, “It Doesn't Matter What the Judge Said” (paper presented at the Aboriginal Title in British Columbia: *Delgamuukw v. the Queen*, Victoria, 1991); Frank Cassidy, ed., *Aboriginal Title in British Columbia: Delgamuukw V. The Queen* (Lantzville BC: Oolichan Books Institute for Research on Public Policy, 1992).

that in order for the courts to understand...it was necessary for us to show them our histories, our laws, our practices, our customs, our obligations, our responsibilities. And in order for that to happen, we had to open up our Houses and our families to people who had no understanding or respect for who we are. I think what we dreaded most was what McEachern did.²⁹⁰

In the Address of the Chiefs, delivered on May 11, 1987, Delgam Uukw, a Gitksan chief, explained history from his perspective. “My power is carried in my House’s histories, songs, dances and crests. It is recreated at the Feast when the histories are told, the songs and dances performed and the crests displayed...(i)n this way, the law, the Chief, the territory and the Feast become one.”²⁹¹ There were clear indications during the course of the trial that this “unorthodox” and unprecedented approach presented a challenge for the judge, trained to work within a totally different legal cultural paradigm. McEachern’s sense of history, law and culture was firmly rooted in a Western colonial mindset that would be difficult if not impossible to dislodge. When elder Antgulilibix (Mary Johnson) wants to sing a song – part of her House history – for the court, McEachern prefers that it be written down because “to have witnesses singing songs in court, is...not the proper way to approach the problem.” Clearly uncomfortable with this breach of decorum, he asks plaintiffs counsel to explain “why it is necessary to sing the song...(reminding him that)...this is a trial, not a performance.” In a final effort to dissuade the elder, McEachern reveals that in any case, he will not hear her song. “I have a tin ear...so it’s not going to do any good to sing it to me.”²⁹² The judge’s intercultural deafness – his unwillingness to listen reveals the depth of the cultural divide between Western and Indigenous knowledge systems, historical understandings and legal practices.

²⁹⁰ Monet and Skanu'u (Wilson, *Colonialism on Trial: Indigenous Land Rights and the Gitksan and Wet'suwet'en Sovereignty Case*, vii.

²⁹¹ Ibid., 22.

²⁹² Ibid., 42.

As we now know, the court was singularly unprepared and unwilling to recognize the authority of the Feast Hall or the histories presented in court. In his reasons for judgment, McEachern makes a distinction between history as “facts” and the “beliefs” or myths that the elders have relayed to him. Yet in discounting the elders’ histories, he relies on a few Settler myths of his own:

(T)he territory is a vast emptiness...the Indians of the territory were, by historical standards, a primitive people without any form of writing, horses, or wheeled wagons...the Gitksan and Wet’suwet’en civilizations, if they qualify for that description, fall within a much lower, even primitive order...Being of a culture where everyone looked after himself or perished, the Indians knew how to survive...(b)ut they were not as industrious in the new economic climate as was thought necessary by the newcomers in the Colony...They became a conquered people, not by force of arms, for that was unnecessary, but by an invading culture and a relentless energy with which they would not, or could not compete...It became obvious...that what the...witnesses describe as law is really a most uncertain and highly flexible set of customs...²⁹³

After 374 days in court, listening to the evidence presented by the Gitksan and Wet’suwet’en elders and chiefs, the Settler myth remained intact in McEachern’s mind. His reasons for judgment are entirely consistent with Settler denial and silencing of Indigenous history, law and peacemaking practices. Nor is the judgment an example of the false innocence or ignorance of history that is often exhibited by the oppressor and described by Trouillot, Million and Cook-Lynn, but as historian Adele Perry points out “... a willful one constructed in spite of, rather than in the absence of, meaningful contact with Gitksan and Wet’suwet’en peoples.”²⁹⁴ And history, she suggests, is deeply implicated in McEachern’s construction of the past.

Although the Supreme Court later ruled that the evidentiary value of oral history must be given equal weight to that of the documentary record, the 1991 record of

²⁹³ Ibid., 187-189.

²⁹⁴ Adele Perry, "Colonialism and the Politics of History in Delgamuukw V. British Columbia" (paper presented at the International Committee of Historical Sciences, Sydney, Australia, 2005), np.

“colonialism on trial” remains a valuable pedagogical tool. In *The Pleasure of the Crown: Anthropology, Law and First Nations*, Dara Culhane offers an indepth analysis of the *Delgamuukw* trial in which she notes that McEachern relied on the positivist history, ethnocentric attitudes and racist stereotypes about Indigenous peoples that were put forward by Crown expert witnesses. In doing so, she argues that his “findings of fact did not arise purely out of thin air or his own imagination...they echoed the Crown’s legal argument...(and drew) on the unreflected upon ‘common sense’ of Canadian colonial culture.”²⁹⁵ As we have seen, the mythological foundations of this colonial culture are based on denial – on the erasing of Indigenous histories, law and peacemaking practices. The countermyth of Indigenous diplomacy demonstrates the depth and persistence of this denial. It also reveals the fundamental lack of imagination that currently exists in Settler approaches to Aboriginal law, policymaking and negotiation processes.

The 21st Century Benevolent Peacemaker

The treaty negotiations of the 19th century are an early example what Woolford characterizes as symbolic violence. The treaty negotiator presents himself as rational, reasonable and realistic in sharp contrast to the Indigenous negotiators, who if they question or challenge terms of the treaty, are viewed as problematic. Writing about current treaty negotiations in British Columbia, Woolford notes that “In the BC treaty process First Nations demands that speak to historical injustices, that speak to settlement options that are outside of non-Aboriginal government mandates, are quickly portrayed as being unrealistic, naive, or underprepared for the hard work of negotiations.”²⁹⁶ In this way, the dominant parties at the table control the process, limiting discussion on matters

²⁹⁵ Culhane, *The Pleasure of the Crown: Anthropology, Law and First Nations*, 366.

²⁹⁶ Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*, 126.

that fail to pass the “reality check” for what is negotiable and what is not. Woolford argues that this creates a tension at treaty tables between “legal-utilitarian versus moral visions of justice,” that is, between governments seeking “certainty” and First Nations seeking “justice.” The result, he says, is a “legal vision” of treaty-making that is based solely on “options that are amenable to the existing Euro-Canadian legal order, leaving no room for moral visions of justice that “may be based on “an alternative, yet widely unrecognized, legal code, such as Aboriginal common law.”²⁹⁷ While one might argue that negotiating treaties on the prairies in the 1870s is a world away from treaty tables in the early 21st century in British Columbia, in reality they are not that different.

The peacemaker myth is resilient and flexible. It is manifested today in the new discourse of reconciliation that now dominates Indigenous-Settler approaches to negotiating treaties, settling historical claims and “healing” our relationship. But as it currently stands this discourse is simply the newest incarnation of colonial shapeshifting. In actuality, Indigenous peoples and Settlers now struggle within a *paradox* of reconciliation that juxtaposes conflicting visions of history, law and justice. Settlers continue to deny Indigenous presence and the history of violence that exists. One way of denying our history is to remain ignorant about it. Historian J.R. Miller, writing about a range of controversies related to First Nations issues in the 1990’s, finds the Canadian public’s response to these events “unsettling.” He notes that “(p)oliticians, journalists, and ordinary citizens understood neither how nor why the crisis of the moment had arisen, much less how its deep historical roots made it resistant to solutions.”²⁹⁸ As a result, we hastily cobble together “simplistic solutions” that inevitably fail, resulting in more “apathy, cynicism, or hostility on the part of Canadians,” a consequence that “does

²⁹⁷ Ibid., 126-127.

²⁹⁸ Miller, *Lethal Legacy: Current Native Controversies in Canada*, vi.

not bode well for effective public debate or sensible policy-making.”²⁹⁹ This capacity to deny history and responsibility is pervasive and systemic. Harris tells us, for example, that it is the “mind of a settler society” that has most influenced Indian land policy over the years,³⁰⁰ defining the “moral landscape of British Columbia”³⁰¹ according to Settler imperatives. The majority of Settler minds in British Columbia remain convinced that assimilation is the preferred solution to the “Indian problem” and thus remain willfully ignorant about Indigenous peoples - their histories, their cultures, their rights.³⁰²

We prefer to maintain our “common sense” notions about the way the world should unfold – the “natural” order of things in which Western cultural values, history, law and policy ultimately prevails. We prefer not to think that our history is somehow linked to myth, but is based solely on “fact,” the supposed forensic truth of documents and laws. By ignoring the links between myth and history, Settlers miss an important opportunity to critically examine why we believe what we do about ourselves, Indigenous peoples and our shared colonial past. Canadian historian Ken Coates also identifies our superficial understanding of history as problematic. Moreover, he points out that even when we are aware of past injustices, we do not necessarily see them as something for which we are now responsible. “The problems are reasons for sadness it seems, not for action. For First Nations people...the willingness of non-Aboriginals to ignore historical responsibilities and contemporary conditions is a painful reminder of how much people can hear without really listening.”³⁰³ While Settlers may feel guilt or remorse about the

²⁹⁹ Ibid., vii.

³⁰⁰ Harris, *Making Native Space*, 297.

³⁰¹ Ibid., 166.

³⁰² Ibid., 298-299.

³⁰³ Coates, *The Marshall Decision and Native Rights*, xiv. See also, Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*, 9-10.

past, we often argue that we are not responsible for the “sins of our ancestors” and that we cannot “remake” the past. Not surprisingly, there is an economic imperative attached to this argument.

Two newspaper editorials published in British Columbia are representative of how we rationalize and put “limits” on our responsibility. The first, published in *The Province*, “If we were to atone for every mistake, we’d be broke,” addresses the historical claims of Doukhobor children who were removed from their homes in the 1950’s and 60’s, but also refers to other historical claims, including those related to Indian residential schools. The editorialist asks “How many of us today think it fair that we be held responsible for our past decisions, or better yet, those of our forefathers... (s)urely, the government of today is entitled to assume that bureaucrats... honestly believed their actions were in the children’s best interests.”³⁰⁴ The second, published in *The Vancouver Sun*, “Apologies are in order, but money can’t undo the wrongs of our past,” notes with alarm that “a century of grievances has led to claims for compensation for more than 90,000 individuals,” from various “ethnic” groups, including Indian residential school students. The editorial acknowledges that the sexual and physical abuse of students has always been criminal and should be addressed. But it ignores Canada’s breach of broader constitutional, treaty and fiduciary responsibilities to Indigenous peoples. The writer concludes:

the federal government... has set aside \$25 million for educational or commemorative initiatives aimed at recognizing historical wrongs. We think that this is the right approach for Canada, particularly in regard to people who are a generation or more removed from the incident in question. The best way for the current generation to atone for sins of the past is to celebrate and protect what is right about Canada. Yes, decisions were taken in the past that we now regret. People were hurt. Rights that we now recognize under the Charter were trampled. But let’s recognize also that other decisions and a maturing legal system have brought tremendous benefits to all Canadians. These too are our legacy, along with the darker deeds we might prefer to forget. On balance, Canada has been a

³⁰⁴ Editorial, “If We Were to Atone for Every Mistake, We’d Be Broke,” *The Province*, sec. A18, October 12, 2004.

land of opportunity and an oasis of multicultural tolerance relative to most of the world. So let's apologize unreservedly, let's closely examine our history and freely second-guess decisions taken by our forebears. But let's do it in the spirit of trying to enhance the present and the future, not to remake the past.³⁰⁵

Together these two editorials provide insight into the inner workings of the mind of a Settler society. In the face of overwhelming evidence to the contrary that Canada has not been a "land of opportunity" for Indigenous peoples we continue to subscribe to the peacemaker myth. The one in which we congratulate our morally superior selves for creating an "oasis of multicultural tolerance."

Settlers are comfortable, so it would be best if those who have suffered put aside their grievances because we are sorry. Not sorry enough to want to change our comfortable lives, but we feel quite badly about what has happened to Indigenous peoples. We keep trying to help them remedy the Indian problem, but despite our best efforts, they just have not been able yet to tap into all the benefits that Canadian citizenship offers them – the bounty and benevolence that we have "gifted" to them with our characteristic spirit of generosity. In the face of this self-serving hypocrisy, what is the reality? In his 2005 report, the United Nations Special Rapporteur on Indigenous Issues, Rodolfo Stavenhagen, notes that Canada ranks *eighth* on the UN Human Development index which measures socioeconomic indicators related to quality of life. Yet when the same criteria are applied to Indigenous peoples in Canada the ranking slips to *forty-eighth* on the scale.³⁰⁶ Moreover, a report published in 2005 by the Department of Canadian Heritage, "A Canada for All: Canada's Action Plan Against Racism," makes

³⁰⁵ Editorial, "Apologies Are in Order, but Money Can't Undo the Wrongs of Our Past," *The Vancouver Sun*, sec. A6, August 8, 2005.

³⁰⁶ Rodolfo Stavenhagen, "Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People. Addendum. Mission to Canada," United Nations Commission on Human Rights. (2005), <http://www.ohchr.org/english/bodies/chr/docs/61chr/E.CN.4.2005.88.Add.3.pdf> (accessed September 10, 2005), 10.

it clear that racism towards Indigenous peoples in Canada is the norm, not the exception. "46% of Aboriginal people living off-reserve stated that they had been a victim of racism or discrimination...(and) 59% of Canadians felt that Aboriginal peoples are discriminated against by other Canadians."³⁰⁷ In a report published in 2004 by the Centre for Research and Information on Canada, "Facing the Future: Relations between Aboriginal and non-Aboriginal Canadians," Indigenous peoples discuss the implications of widespread racism. One Indigenous woman observes that "Canadians are known and respected for warmth, kindness and being polite...(but) Canada can be a hostile, cruel place...a politely racist experiment for Aboriginal people...racism is subtle...it is so polite, everything delivered with a smile..."³⁰⁸ First Nations leaders in British Columbia recently identified what they see as the barriers to improving education success rates for Aboriginal students in the province.

These barriers include a legacy of distrust due to residential schools; unemployment and poverty;...the omission of aboriginal histories and knowledge, and the lack of an aboriginal voice in education decision-making. But without a doubt, the most challenging of all barriers to our students' success is the denial that racism is a problem. It is real and it is alive. When our students can see themselves in the history books, then we may see greater successes.³⁰⁹

There are literally hundreds of reports produced every year that come to similar conclusions. Indigenous peoples identify the issues over and over again in meetings with governments at all levels and in the media. Every year, governments issue reports that admit that things are bad, but promise that we are now going to do better.

³⁰⁷ Canada, Canadian Heritage, "A Canada for All: Canada's Action Plan against Racism," (2005), 9. http://www.ach.gc.ca/multiplan_action_plan/pdf/action_long_e.pdf (accessed October 15, 2005)

³⁰⁸ Centre for Research and Information on Canada, "Facing the Future: Relations between Aboriginal and Non-Aboriginal Canadians," (2004), 17. http://www.cric.ca/pdf/cahiers/cricpapers_june_2004.pdf (accessed August 10, 2005)

³⁰⁹ Edward John et al., "As the Barriers Come Down, Education for Native Children Is Improving," *The Vancouver Sun*, September 29, 2005

It is telling that in the face of these well-documented harsh realities of Indigenous peoples lives we still subscribe to our comfortable Settler beliefs about the moral and cultural superiority of Canadians. In the mind of a Settler society, these “qualities” mitigate any “mistakes” we have made in the past. We are filled with good intentions towards First Nations, and that, after all is what really matters. It is this attitude that allows us to conclude conveniently, that we should all just live in the present, where things are so much better. And if they are not yet better, we are working to make them better. Canada is a constant “good work in progress,” our missionary roots apparently still intact. We accept no real responsibility for the actions of past governments. Yes, there were some bad things that happened to some people, and we do not mind saying we are sorry. But we do not think it necessary to inconvenience ourselves financially or to fundamentally question the status quo. This is the cheap reconciliation that Yamamoto describes, and while our governments may talk about recognizing and respecting Aboriginal rights and treaties, it is ultimately the public mind of the majority Settler population that dictates political will. This is why public education is so critical. But it is not enough just to provide information. If it were that simple, true decolonization would have already occurred. Rather we must find ways to reach not just the mind and pocketbook of a Settler society, but its heart, soul and conscience as well.

To dislodge the peacemaker myth, we need a clearer understanding of the moral, not just legal, responsibilities that we have inherited. In Canada, both Settlers and Indigenous peoples have focused primarily on a rights-based approach and, not surprisingly, Aboriginal and treaty rights litigation has grown exponentially. Within this context, the discourse of reconciliation focuses on the need to reconcile Aboriginal and Crown title. This, as Woolford argues, leads to an inevitable tension between justice and certainty, that is, between government and industry’s desire to achieve legal certainty

regarding land and resource ownership, and Indigenous peoples' demand for moral justice.³¹⁰ Janna Thompson argues convincingly that societies and nations have intergenerational moral responsibilities that encompass past, present and future relationships. She suggests that focusing solely on legal rights and obligations is an inadequate response to grievances that are rooted in history and continue in the present. She says that citizens must understand that the moral and political integrity of nations as "intergenerational communities" rests upon fulfilling our collective moral obligations. Just as we bind our successors to treaties and agreements that we make today, so too, are we bound by those made and sometimes broken, by our ancestors. We inherit moral as well as legal obligations and thus, historical claims "require a response from us as moral agents."³¹¹ Viewed from this intergenerational perspective, it is much harder for Settler societies to deny history and responsibility. Developing this longer view of a history that is alive in the past, present and future means revisiting our myths.

Keeping in mind Lederach's argument that we must use moral imagination in order to transcend cycles of violence while living within them, it is critical to recognize that the political and social conflicts we face have a mythical content. He points out that we live in a paradox in which "we hold fast to myths that what we have created to govern our lives is responsive to whom we are as human beings and to our communities," although it is these very structures that we feel most distant from.³¹² In other words, we cling to the notion – the myth – that the institutions we have created are working for us even as we see their growing inability to meet the social, health, economic and environmental needs within our communities, both Settler and Indigenous. Within the

³¹⁰ Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*.

³¹¹ Janna Thompson, *Taking Responsibility for the Past: Reparation and Historical Injustice* (Malden, MA: Blackwell Publishers, 2002,) vii-xxi, ix.

³¹² Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 28-29.

context of Indigenous-Settler relations, we fail to make the connection between the myths we believe about ourselves and Indigenous peoples, the Aboriginal law and policy we create and implement, and the abysmal failure of our legal and governing institutions to make any positive difference in the lives of the Indigenous peoples that we claim to care about so much. Furniss observes that:

The legacy of colonialism is evident not only in the ongoing structures of political authority and Aboriginal-settler relations in Canada but also in the cultural fabric of Canadian society... These cultural forms – the ideas of history, identity, society, and indigenous “difference” that permeate Canadian literature, film, art, and popular culture – are not secondary derivatives of political/economic practices. Instead, these cultural representations and practices are central to the very process of establishing and perpetuating colonial relationships... In Canada, there has been no radical break with the past: Canadian culture remains resolutely colonial in shape, content, meaning and practice.³¹³

Regardless of where we are on the political spectrum with regard to Aboriginal issues in Canada, the peacemaker myth is at the heart of how we justify and rationalize our actions. On the political right, it is manifested in disingenuous rhetoric about the problem of “race-based rights” and the need for “one law for all” which of course, is “superior” Western law.³¹⁴ On the political left, it is the “well-intentioned” hand-wringing over the plight of “our” Aboriginal people, those “victims of progress” that we must now help. Either way, cultural arrogance and a denial of colonial history drives both political agendas. Historically, Canadians have been fixated on addressing the Indian problem, and if current policy initiatives are an indicator, this singular focus has not changed.

How does contemporary colonial shapeshifting manifest itself in Aboriginal policy? Here we can look at the Canada-Aboriginal Peoples Roundtable referred to

³¹³ Furniss, *The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community*, 12.

³¹⁴ See for example, Tom Flanagan, *First Nations: Second Thoughts?* (Montreal: McGill-Queen's University Press, 2000); Melvin H. Smith, *Our Home or Native Land? What Governments' Aboriginal Policy Is Doing to Canada* (Victoria: Crown Western, 1995).

above. The prime minister touted it as a new transformative approach to Aboriginal policymaking. He suggested that ten years from now we would look back on the CAPR as a watershed in Indigenous-Settler relations. Reconciliation is the overarching legal and policy discourse that now frames contemporary Indigenous-Settler relations on a number of fronts, including treaty, self-government negotiations, and litigation related to land claims and residential schools. Canadian courts have said that the principles of reconciliation must guide the resolution of conflicts between First Nations and the Crown. At the policy level, reconciliation framed discussion at the Roundtable where the prime minister promised Indigenous peoples that “no longer will we in Ottawa develop policies first and discuss them with you later. This principle of collaboration will be the cornerstone of our new partnership”³¹⁵ The stated goal of CAPR was to “engage in a renewed dialogue that would contribute to *transformative* change and improve the lives of Aboriginal people in Canada.”³¹⁶ The federal background paper for the CAPR negotiations roundtable recommended reconciliation as a policy framework to guide policy renewal and the reform of treaty and land claims negotiation processes to better reflect recent court decisions on Aboriginal and treaty rights.³¹⁷ But as we have seen, such tinkering with policy is not “transformative,” but rather another example of the affirmative strategies that change little for Indigenous peoples. In British Columbia, where the *absence* of treaty-making is the issue, the peacemaker myth, framed within a discourse of reconciliation, is nevertheless very much in evidence. In 2005, the provincial government made a political commitment to establishing a “new relationship” with First

³¹⁵ Canada, “Strengthening the Relationship: Report on the Canada-Aboriginal Peoples Roundtable,” 33.

³¹⁶ *Ibid.*, 5. (Emphasis mine.)

³¹⁷ Canada, Indian Affairs and Northern Development, “Renewal of Policies and Processes for Addressing Aboriginal and Treaty Rights: Federal Background Paper for the Negotiations Sectoral Roundtable,” (Indian Affairs and Northern Development 2005), http://www.aboriginalroundtable.ca/sect/ngot/rpt/Facilit_rpt_negot_e.pdf (accessed April 20, 2005), 3-4.

Nations, based on the *recognition* rather than *denial* of Aboriginal title and rights.³¹⁸ The province has made political commitments to revenue sharing and co-management of lands and resources and has committed \$100 million in capacity funding for First Nations communities. Recently, Premier Gordon Campbell told First Nations leaders that:

Governments throughout the history of B.C. have followed a “path of denial” and have “failed” aboriginal communities in the province... You are the founding nation of a nation that is the envy of the world but your place in Canada at times has been like a shadow to all else that we have achieved as a country. Over the next decade Canada must close the gap between aboriginal and non-aboriginal Canadians.” Campbell tried to convince leaders...(that) his government is truly committed to forging a new relationship. “I hope we will be able to show you by our actions, as well as by our words, that we mean what we say when we say we want all First Nations to be part and parcel of an exciting future for all of us in Canada.”... Campbell’s words... were met with mild applause and guarded optimism.³¹⁹

Clearly, recent court decisions ruling in favour of First Nations with regard to consultation have provided much of the impetus for this change. The new relationship will not be based on achieving certainty by extinguishing Aboriginal title, but on “respect, recognition and accommodation of aboriginal title and rights... Our shared vision includes respect for our respective laws and responsibilities.” The parties agree to “(d)velop impartial dispute resolution processes and work towards a decrease in conflicts leading to litigation.”³²⁰ This raises a significant question. How will neutrality-based ADR models that are designed using uncultural, ahistorical approaches to settling conflict, perpetuating unequal power relations and symbolic violence, make space for respecting Indigenous laws and responsibilities? On the surface, the provincial Liberals seem to be

³¹⁸ For more information on the new relationship, see British Columbia. Ministry of Aboriginal Relations and Reconciliations website at http://www.gov.bc.ca/arr/popt/the_new_relationship.htm

³¹⁹ Jonathan Fowlie, "Premier Tells First Nations That B.C. Has 'Failed' Aboriginals Throughout the Province's History," *The Vancouver Sun*, September 29, 2005.

³²⁰ British Columbia, Aboriginal Relations and Reconciliation "The New Relationship," (2005), 1, 5. http://www.gov.bc.ca/arr/down/new_relationship.pdf (accessed September 27, 2005)

making nothing short of a paradigm shift in their thinking with regard to Indigenous peoples. But the document is mute on the issue of history. How will this new relationship change the minds of a Settler society that has systematically denied the history and rightful place of Indigenous peoples since we first arrived? Harkening back to Kertzer's observations about the key role that myth and ritual play in political life, public policy and the day-to-day workings of governments, how will Campbell's political vision be translated and implemented within the government bureaucracy? In other words, how will we, as Settlers, contribute to transforming the old relationship of denial, without challenging our own myths and history, both personally and politically?

Taking these two examples- one federal and one provincial - into consideration, have Settlers in Canada really turned a new leaf or are these "new, transformative approaches" towards reconciliation simply more colonial shapeshifting that constitutes false decolonization? If we consider the question from an historical perspective, the answer does not look promising. On the federal front, there has been no shortage of plans to "improve the lives of Aboriginal people in Canada" in the years since Alexander Morris penned his vision: the 1969 White Paper, comprehensive and specific claims policies, RCAP (most of which was never implemented) and the 1998 Action Plan, *Gathering Strength*. The list of all of the policies, programs and services designed over the years is mind-boggling. And of course, consultation with First Nations prior to implementing new initiatives is now a legal and policy requirement, as the CAPR statement indicates. But is CAPR truly transformative or just new shapeshifter language – "policy-speak" that repackages the same old assimilationist Indian policy?

In his evaluation of "progress" on the Aboriginal rights front in the fifteen years since the Oka crisis, long time Indigenous policy advisor, Russell Diabo, (Mohawk) sees a disturbing trend wherein issues related to treaties, rights and governance are

increasingly “compartmentalized” from negotiations over program and services related to education, housing, health and economic development. He points out that negotiations designed to “reduce the gap” in quality of life between Indigenous peoples and Canadians are nothing new. The CAPR is simply the latest in a long line of federal attempts to “off-load their constitutional obligations for delivering programs and services to First Nations (and other Aboriginals)” onto the provincial and territorial governments...(while) the issue of rights to lands, natural resources and self-determination are not even on the table.”³²¹ This approach is not only a Liberal prerogative. Writing in 1990, another policy analyst, Murray Angus, concluded that in the period leading up to the Oka crisis, Tory government policy objectives related to self-government, treaty and land claims negotiations were driven primarily by political, economic, and bureaucratic considerations that have little to do with honouring treaties or meeting constitutional obligations. Rather they are symptomatic of Ottawa’s desire to “get out of the Native business,” which is viewed as a political and economic burden rife with complex, intractable conflicts.³²²

New Directions? Myth, Ritual and History Revisited

Later in this study, I build on Richard Whites’s work to consider the possibility of creating a “new middle ground” in the 21st century. Exploring the conceptual and structural framework of this new middle ground as a decolonizing metaphor for contemporary Indigenous-Settler dialogue breaks the silence that denies Indigenous peoples’ central role in the history of what is now North America. It gives renewed voice to Indigenous diplomacy, law and peacemaking practices that incorporate the use of story,

³²¹ Russell Diabo, "The "Oka Crisis" 15 Years Later: Has There Been Much Progress on Mohawk (or First Nations) Rights?" *First Nations Strategic Bulletin* 3, no. 9 (2005), 5.

³²² Murray Angus. *and the Last Shall Be First": Native Policy in an Era of Cutbacks* (Toronto: NC Press Ltd, 1991), 1.

ritual, and ceremony. But today's middle ground is a dangerous place for Indigenous peoples to tread because it is inhabited by Settler colonial shapeshifters bearing the false gift of reconciliation. This takes two forms. The first involves assimilating or appropriating Indigenous peacemaking practices into mainstream processes as ceremonial "window dressing" in Western-based conflict resolution and reconciliation processes that remain essentially Settler-driven.³²³ The second conflates the common ground into liberal multiculturalism or the creation of a "hybrid" North American culture in which Indigenous peoples and Settlers blend into an amorphous "oneness."³²⁴ Both approaches are problematic because Settler society's strong assimilationist agenda makes it highly likely that Indigenous peoples would simply be subsumed into a "hybrid" culture that would be more Western than Indigenous. The appeal of this cultural blending is obvious. For Settlers who, as Francis argues, have "suspected that we can never be at home in America because we were not Indians, not indigenous to the place,"³²⁵ it resolves our "identity crisis." Neither approach compels us to share power or make substantive space for Indigenous people in ways that could lead to just and peaceful co-existence. Before we can enter a contemporary middle ground, Settlers must confront the harsh reality that our benevolent peacemaking practices have produced the opposite of the effects intended; continuing violence, racism, denial, guilt and fear in Indigenous-Settler relations.

Indigenous scholars and activists in North America point out that Settler myths are deeply ingrained in the national identities of the United States and Canada. Thus, the "demythification" of Settler history – a fundamental questioning of the moral foundation

³²³ Napoleon, "Who Gets to Say What Happened? Reconciliation Issues for the Gitksan," 176.

³²⁴ On the creation of a unique hybrid culture, see Anthony J. Hall, *The American Empire and the Fourth World*, ed. Bruce G. Trigger, *McGill-Queens's Native and Northern Series* (Montreal & Kingston: McGill-Queen's University Press, 2003); Colin G. Calloway, *New Worlds for All: Indians, Europeans, and the Remaking of Early America* (Baltimore: John Hopkins University Press, 1997).

³²⁵ Francis, *The Imaginary Indian: The Image of the Indian in Canadian Culture*, 223

of Settler societies - is an essential component of truth-telling and decolonization. Chiricahua Apache legal scholar William Bradford says that "...the first step in U.S.-Indian reconciliation must be (the) dismantling of (a) national myth of Indian inferiority and white infallibility through retelling and re-envisioning U.S.-Indian relations..."³²⁶ Writing about the need for a national U.S – Native American reconciliation process, Bradford, concludes that reparations (by which he means legal remedies for monetary compensation based on tort-law) alone, cannot adequately address the full range of harms perpetrated against Indigenous peoples in the United States or meet Indigenous political demands for self-determination and the restoration of lands, languages and cultures. He argues that demanding "...reparations (alone) would miss a key opportunity to employ moral argument...in which...(m)orally central to the Indian claim for redress is the idea that treaties impose upon the parties the ongoing moral obligation to act in fairness and good faith."³²⁷ Cook-Lynn argues that Settlers have "...require(d) that the new history of the New World be described as a decent history, "good" and "moral,"³²⁸ a vision of the world that necessarily precludes the different moral visions of Indigenous peoples. Thus the true story of colonization in North America creates a moral dilemma for Settlers who, believing in our own moral and cultural superiority, have developed theories (legal, philosophical and political) and institutional structures to justify our illegal and immoral actions. And as Alfred reminds us, "(m)yth(s) of national identity and prejudicial attachments to colonial structures and symbols as the guarantors of social peace and "national unity" are sacred and always remain unexamined and unquestioned."³²⁹

³²⁶ William Bradford, "with a Very Great Blame on Our Hearts": Reparations, Reconciliation, and an American Indian Plea for Peace with Justice," *American Indian Law Review* 27, no. 1 (2002), 153.

³²⁷ *Ibid.*, 133 See also, Tsosie, "Acknowledging the Past to Heal the Future: The Role of Reparations for Native Nations".

³²⁸ Cook-Lynn, *Anti-Indianism in Modern America: A Voice from Tatekeya's Earth*, 54-55.

³²⁹ Alfred, *Wasase: indigenous pathways of action and freedom*, 77.

How have Settlers avoided moving beyond our narrow concerns of limiting legal liability and economic expediency? As colonizers, our strategic brilliance has always lain in our capacity to shapeshift - to portray ourselves not as perpetrators of violence but as peacemakers with an earnest desire to improve the lives of Aboriginal people in Canada. One can understand how Indigenous peoples might be skeptical given the Settler "track record" to date. Deep transformative social change will require more than policy negotiations however well-intentioned. Settler society as a whole must embrace nothing less than a paradigm shift in our attitudes and our actions towards Indigenous peoples, at personal, public and institutional levels. In the face of Indigenous peoples' accusations of genocide, racism, political non-recognition and the illegal theft of lands and resources, we comfort ourselves with the peacemaker myth – we like to believe that we were 'kinder, gentler' colonizers who negotiated just treaties with Indigenous peoples even as we 'saved' them from destruction by bringing 'civilization' to the west. Early Canadian historical works reinforced the peacemaker myth in the public mind. Settlers accepted uncritically the self-congratulatory reports of various government officials involved in the treaty negotiations, who portrayed themselves as benevolent arbiters of British justice and civilization, and Indigenous peoples as passive victims of progress and willing recipients of government largesse. Settlers must rethink our most fundamental understandings of the history of colonization and how we define violence. In many respects, the subtlety of the peacemaker myth is far more insidious and potentially just as lethal as the physical violence that has been perpetrated against Indigenous peoples. The extent to which Settlers have erased Indigenous history, law, diplomacy and peacemaking practices from the consciousness of mainstream North America is profound. This denial constitutes a subtle, yet effective form of violence against Indigenous peoples and precludes Settlers from examining our own legacy as colonizers and perpetrators of violence not peace. In

deconstructing the benevolent peacemaker myth and making visible Indigenous diplomacy, it is essential for Settlers to reflect critically on the role of myth, ritual and history in peacemaking. We may think that the colonial benevolent peacemaker of the past has disappeared, but the current discourse of reconciliation that shapes Indigenous-Settler relations suggests otherwise. In the next chapter, I focus on this discourse in more depth with regard to Indian residential schools as a case study of contemporary colonial shapeshifting.

Chapter Four

Indian Residential Schools: Reconciliation as Contemporary Colonial Shapeshifting

Reflections

In 2002, I became aware that the Canadian federal government was developing a new alternative dispute resolution (ADR) program to settle thousands of litigation claims filed by former students of Indian residential schools, against the Crown and various church entities that were responsible for operating these institutions. The impetus for using ADR to resolve IRS claims was threefold; it would move claims out of the adversarial litigation process, be more timely and cost-effective, and would better support healing and reconciliation. In theory, ADR would create real opportunities to address the IRS legacy in a fundamentally different way that might mark a paradigm shift in Indigenous-Settler relations. In practice, of course, we encounter significant challenges in trying to shift from a culture of litigation to a culture of resolution and reconciliation. In 2002, I had the opportunity to work at Indian Residential Schools Resolution Canada (hereafter IRSRC),³³⁰ where in my capacity as a resolution manager, I spent the next two and a half years working on the ground directly with residential school survivors, church representatives, Department of Justice lawyers and plaintiffs' counsel, settling IRS claims. For me, this experience, more than anything else put a human face on the violence of colonialism. When I began this work, I thought that my knowledge and experience in Indigenous issues would serve me well. Looking back, I marvel at my naivety. Nothing I had done up to this point really prepared me to confront head-on this legacy of colonialism. Nor had I really understood how the impacts continue to reverberate through First Nations individuals, families and communities. I was

³³⁰ The views expressed in this chapter are solely those of the author.

consistently humbled by the courage, resilience and dignity of IRS survivors who came forward to talk about their experiences with representatives from institutions that they have no reason to trust. In breaking the silence, they compelled me to learn to how to listen not just with my ears, but with my heart, mind and spirit.

As the "face of Canada," a government representative, I could no longer avoid experiencing the visceral impacts of colonialism by distancing myself from them. So I found myself rationalizing all the reasons why I was not the colonizer: I was working for social justice and change from within my own dominant culture institutions; I was enlightened; empathetic; my intentions were "good;" I was committed to finding a just solution to these claims; I grew up in a low-income, ethnically diverse urban neighbourhood; I was not one of those racist White, upper or middle-class people raised in insular privilege! But, I also knew that despite my relative lack of privilege in dominant culture society, no one had come to my home as a matter of government policy or religious imperative to remove me from my mother's care. My fair skin and colouring protected me from racism, if not gender and class-related biases at school and later in the work world. At the same time, I understood that wallowing in a self-indulgent guilt that was "all about me," would be worse than useless.

At the end of long days spent with IRS survivors I agonized over whether I could do this work in a way that was congruent with my own principles, beliefs and sense of integrity. I thought long and hard about the responsibility I had accepted in bearing witness to these stories, this testimony that I heard from IRS survivors. Of course on one level, my responsibility was to "settle" these claims. But on a deeper, more human level, it became so much more. As I sat across the table from elders who broke the silence to speak the truth to me about the horrendous things that had happened to them, I knew in my heart that regardless of whether or not their "claims" could be validated according

to a narrow legal criteria, a fundamental and deep injustice exists in this country that must be made right. This is the simple, unvarnished truth that Settlers continue to deny as we attempt to qualify and limit our responsibility through various legal, policy and program machinations. Here I make no claim to “neutrality” about the issue. Rather I write as a Settler who is engaged, as someone who cannot help but wonder how Canadians who claim to be champions of peace throughout the world, have failed so abysmally to speak out, to demand that justice be done in our own backyard.

The diabolical nature of symbolic violence lies in its subtlety and invisibility – on one level, Settlers can point to all of the concrete actions Canada has taken with regard to IRS claims as proof that we are addressing this injustice. Yet at the same time, if we are honest with ourselves we must ask why it has been necessary for Indigenous peoples to file litigation claims in an attempt to gain redress from Canadian society even as we speak to them of healing and reconciliation. As I learned more about the full horrors of the residential school legacy and the complexity of the issues involved, it seemed to me that the emerging ADR philosophy that was developing was a strange hybrid mix of tort-based claims resolution embedded in a discourse of reconciliation that focused on healing, apology and commemoration. I heard on a regular basis about the need for First Nations people and communities to heal and reconcile amongst themselves and with us. Of course this is true, but the talk about “healing and reconciliation” made me uneasy because it was so one-sided. What I did not hear much about was the need for non-indigenous people to engage in any critical self-reflection that requires us to examine what it means to be a colonizer. At the heart of my misgivings was a growing realization that this discourse of reconciliation is actually a living testament to the ongoing dysfunction, violence, denial and unequal power relations that characterize Indigenous-Settler relations. In this sense, our dialogue contains all the elements of an abusive,

“crazymaking” relationship – the victim names the abuse which the perpetrator either denies or acknowledges with a promise to change the bad behaviour, while pointing out all the supportive ways he/she is “helping” the victim. It is hard to recognize the perpetrator’s manipulative behaviour because on the surface, his/her actions seem to verify a benevolent intention to behave decently and honourably. How does this dynamic play out on the ground? The following example is representative.

In March, 2004, I attended a conference, “Residential Schools Legacy: Is Reconciliation Possible?” at the University of Calgary in Alberta, Canada.³³¹ A diverse group gathered – First Nations political leaders, Indian residential school survivors, lawyers, academics, government and church representatives – to engage in a difficult dialogue about Canada’s new ADR program that has not been well-received by First Nations. The program is promoted as a more humane, faster way to settle IRS claims. But if anything, ADR was generating more anger, confusion and distrust on the part of IRS survivors and communities. Moreover, the government had recently announced that it intended to appeal the Blackwater decision, one of the landmark IRS court cases from British Columbia. This conference was jointly convened by the Assembly of First Nations and the University of Calgary’s Faculty of Law as an opportunity for dialogue about whether it was meaningful to even talk about reconciliation in light of these events.

An elder begins the conference with a prayer and a welcome song. As the day unfolds, we hear many stories and different perspectives on what the residential schools legacy means for Indigenous peoples and for Canadians. Various speakers talk about legal issues, the impacts of IRS, and reparations for state wrongs and abuse. An AFN representative tells conference participants about the strong feelings generated and the “acrimony that is prevalent now” regarding the ADR program in the many communities

³³¹ This section is based on the author’s conference notes. Residential Schools Legacy: Is Reconciliation Possible? University of Calgary, Calgary, Alberta, Canada. March 12-14, 2004.

he has visited across the country. A non-indigenous church representative says that "if I enjoy the privileges created by my ancestors, then I must also accept the responsibilities that come with them." He says that "there is a deep fracture running through Canadian society that must be recognized, and our history is part of this." He criticizes the narrow focus of the ADR program, and asks, "Whose justice, whose laws are represented? Who is controlling the process?" He calls for a broader, more comprehensive process that addresses not just sexual and physical abuse, but loss of language, culture and spirituality. By the end of the day, the depth of dissatisfaction with the ADR is apparent.

On the second day of the conference, the Minister for IRSRC makes a speech in which he outlines all the programs and services developed by government for Aboriginal peoples. He refers to the Statement of Reconciliation issued by Canada in 1998, which expressed regret for the harms caused to residential school students. He acknowledges that most Canadians do not know about the residential school history, saying that it is "(n)ot an easy picture to look at but if we are to move beyond victimization and toward healing and reconciliation, all Canadians must understand this history."³³² A panel of government officials makes a presentation on the ADR, outlining its advantages. As a member of the audience, I see a wide gap between the positive messaging put forward by government officials and the angry response it receives. The Minister is accosted in the aisle as he attempts to leave as someone demands that he answer questions. The panel is peppered with statements and questions that make it absolutely clear that the audience does not share this particular government vision of healing and reconciliation.

On the afternoon of the second day, as the dialogue continues, the atmosphere is intense and emotions run high as speaker after speaker expresses raw anger, despair and

³³² Canada, Indian Residential Schools Resolution Canada "Minister Coderre's Speech at Residential School Conference, Calgary Alberta, March 13, 2004," (2004), http://www.irsr-rqpi.gc.ca/english/pdf/Minister_Coderres_Speech_at_UoC_Mar-13-04.pdf (accessed January 9, 2006).

frustration about the lack of progress on the residential schools issue. Some consistent themes have emerged. The ADR focuses too narrowly on sexual and physical abuse, and does not address the cultural loss suffered by students who were alienated from their own families and communities as a matter of government policy. The process itself is flawed – a long, complicated form must be filled out which is itself dehumanizing. One woman asks non-indigenous people in the audience, “Would you make your grandmother fill out a form like this? It’s degrading. These things happened to us. We don’t want to be revictimized. Enough is enough!” Several people say that the process is not acceptable because it has been unilaterally designed by White people, and consultation with First Nations has been inadequate despite what the government says about “consulting with stakeholders.” Another Indigenous speaker reminds us that the residential schools damaged the spirit and intent of the treaty that was established between his ancestors and Canada. As he talks about the history of betrayal and genocide that his peoples have suffered at the hands of White colonizers, a Euro-Canadian woman sitting next to me fidgets – visibly agitated. When the speaker is finished, she leans toward me and says “We’re here to talk about residential schools. What has that got to do with treaties or genocide?” I turn to look at her. “Everything,” I say. Over the two days of the conference, the government officials respond respectfully to criticism, but keep “on message” about the positive attributes of the ADR. These are the dynamics of symbolic violence played out on the ground in much the same way that Woolford describes in the BC treaty negotiations. At the end of the conference, in the face of the anger and frustration expressed, government officials agree to engage in further consultation with the AFN, but make no commitment at this time, to change either procedural or substantive aspects of the ADR program.

Later, as I sit on the plane traveling back to Vancouver, I think about how Canadians cringe when we hear words like genocide, betrayal, and abuse. The image of

colonizer as abusive perpetrator is fundamentally at odds with a cherished Canadian myth that our Settler ancestors were benevolent peacemakers who made treaties with Indigenous peoples that were a measure of our fair, just and generous approach to settlement. Now Canadians as the modern day peacemakers still armed with the cultural and legal superiority of Western neutral justice and our need to save Indians, want to “reconcile” a relationship that we failed to recognize, respect and honour in the first place. We do not want to admit to the violence, nor to the power of dominant culture hegemony that is masked in “neutral” conflict resolution processes in which we claim Indigenous peoples can find justice. The debate over the ADR program between government and First Nations that I had witnessed revealed the degree to which we are engaged in a “dialogue of the deaf” as we stay stuck in old ways of interacting with each other as colonizer/colonizer, perpetrator/victim. As I left the conference, I had no easy answer to the question, “Is reconciliation possible?” Rather I came away with a sense of the deep divide that exists between Indigenous peoples and Canadians when it comes to the stories of our shared colonial past. This is a gap that continues to be reinforced by the violence that permeates our relationship.

Reconciliation, Residential Schools and ADR

The recollections of George Manuel...serve as a poignant example of the layering and intertwining of...various levels and types of violence (in)... residential schools ... “Learning to see and hear only what the priests and brothers wanted you to see and hear...even the people we loved came to look ugly”...In this simple statement, we witness the brutal sophistication and irresistible force of racism, applied bureaucratically and rationalized economically at arm’s length, working insidiously as psychological terrorism. The violence, having been turned inward, becomes a toxic and effective self-loathing, culturally and individually. Can there be a more elegant violence than this?³³³

³³³ Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*, 4. Neu and Therrien quote Manuel and Posluns, *The Fourth World: An Indian Reality*, 63, 67.

George Manuel's story is a stark reminder for Settlers who, if they think at all about Indian residential schools as part of our national history, do so in the abstract as an issue that the government and churches are now taking steps to address. In this way, we shield ourselves from hearing thousands of stories about the "elegant violence" that Canadian society has perpetrated against Indigenous individuals, families and communities. In the last chapter, I traced the genesis, popularity and persistence of the peacemaker myth that is central to our self-image as Canadians to consider the role of myth, ritual and history in perpetuating the symbolic violence that exists in the bureaucratic practices of law, policymaking and negotiations. The inconsistencies in our national story – the *real* histories and lived experience of Indigenous peoples - mark the disjuncture between the myth and the violence that actually forms the foundation of Indigenous-Settler relations. There is perhaps no more compelling example of colonialism's ongoing cycles violence and deeply ingrained patterns of perpetrator/victim behaviour, attitudes and dialogue than in the discourse of reconciliation related to the legacy of Indian residential schools. Violence is manifested in the visceral exchanges between IRS survivors, government officials and church representatives in public forums and less visibly in the everyday bureaucratic processes and practices that serve to reinforce colonial power relations. This "subtle" violence is all the more elegant because it is embedded in a language of reconciliation, healing and addressing past injustices, that is seductive to both the colonizer and the colonized, albeit for different reasons.

For Settlers, the promise of reconciliation is grounded in a false hope that we can somehow compartmentalize the past without facing the history that is still alive. As a nation of "peacemakers" we are loathe to give up our cherished myth with its' imaginary Indians who are "problematic," in order to unmask the ugly truths about the Settler problem. Still casting ourselves in the role of neutral arbiters of justice intent on "saving

Indians,” we now focus on Indigenous peoples’ need to “heal” themselves and “reconcile” with us. In this way, we avoid facing the full moral consequences of the unjust legacy we have inherited as beneficiaries of colonialism. I am not suggesting that we discount or minimize the substantive damage and very real suffering of IRS survivors, but that Settlers must stop pathologizing Indigenous peoples and acknowledge the Settler problem and our own dysfunction. The residential schools were part of a broader assimilationist agenda, and the colonial project we devised for “educating” Indigenous peoples constitutes cultural genocide. It is the depth and persistence of our violence, denial, racism and inhumanity towards Indigenous peoples that Settlers must face. We must then ask ourselves, who is really sick and in need of healing, those who were the victims of the system or those who created, implemented and maintained it?³³⁴ For Indigenous peoples, the discourse of reconciliation is that of resistance, of breaking the silence to demand justice, of (re)taking space for Indigenous history, diplomacy, law and peacemaking practices to be re-inscribed on the moral landscape of Indigenous-Settler relations in Canada.³³⁵

In this chapter, I explore the recent controversy over Canada’s new ADR program for settling Indian residential school claims as a case study in contemporary colonial shapeshifting that reveals a significant authenticity gap between the rhetoric of reconciliation and the reality of the tort based, legal-utilitarian approach that dominates the process. I suggest that Indigenous peoples and Settlers are stuck within a paradox of reconciliation that juxtaposes conflicting visions of history, culture, law and justice in ways that reinforce cycles of violence between us. Reframed in this way, we see how the

³³⁴ Dr. Roland Chrisjohn made this point in a public lecture in Vancouver, BC in June 2005. See, Roland Chrisjohn and Sherri Young, *The Circle Game: Shadows and Substance in the Indian Residential School Experience in Canada*, (Penticton: Theytus Books, 1997).

³³⁵ Million, "Telling Secrets: Sex, Power and Narrative in the Rearticulation of Canadian Residential School Histories".

ADR program falls far short of addressing deeper relational systems of violence³³⁶ even as it entrenches unequal power relations between perpetrator and victim. I analyze the conflict narrative of IRS claims policy, the evolution of the ADR program, and the subsequent political controversy that developed after the program was launched. I then explore the theoretical connections between intractable conflict, violence, and justice. Several key themes emerge to demonstrate how relational systems of colonial violence are both perpetuated and resisted in a discourse of reconciliation. The controversy over the ADR program reveals the tensions that exist between achieving legal certainty versus moral justice in a program that replicates traditional bureaucratic violence even as it claims to be transformative and reconciliatory. We see this most clearly in how government officials rationalize the program (to others and themselves) as holistic, humane, just and cost effective in the face of criticism that it is a legalistic, overly bureaucratic, economically unviable process that denies justice to IRS survivors.

Settler epistemology, rooted in Western cultural values that privilege neutrality and utilitarian pragmatism over engagement and moral imagination, is reflected in this defense of the ADR program. In the midst of political controversy, we see how both Settlers and First Nations invoke myth, ritual and history to legitimize their respective visions of reconciliation in public forums, the formal setting of House of Commons committee meetings, and in the media. Finally, the controversy also reveals the power of IRS survivors' personal testimonies to break through the silence of Settler denial, compelling us to listen in ways that support truth-telling - the restorying of Indigenous-Settler history. Viewed from this broader perspective, the various remedies put forward by all parties to address the IRS legacy provide insight into the complex challenges we face in attempting to transcend cycles of violence even as we live within them. On one

³³⁶ Redekop, *From Violence to Blessing: How an Understanding of Deep-Rooted Conflict Can Open Paths to Reconciliation*. 13, 117-118; Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 53-54, 62.

hand, the ADR program can be seen to represent old patterns of interaction between colonizer/colonized that are antithetical to the transformative, decolonizing social change. On the other, a truth-telling and reconciliation process has potential to serve as a pedagogical tool for unsettling the Settler within and making space for Indigenous history, law and peacemaking practices. Keeping in mind that we must begin from where we are, not from where we hope to be in the decolonization project, the naming of hegemonic violence is a necessary first step in unsettling the Settler within.

Setting the Context: The History of IRS Claims Policy and the Evolution of ADR

In A National Crime: The Canadian Government and the Residential School System, 1879-1986, John Milloy calls Canadians to account for the past that is still present – for the history that is alive in the disrupted stories of Indigenous peoplehood and in the Settler story of denial and silence. He tells us that we must ‘own’ or acknowledge the painful chapters in our past for which we now bear responsibility.

The residential school system was conceived, designed and managed by non-Aboriginal people...The system is not just someone else’s history, nor is it just a footnote or a paragraph, a preface or chapter, in Canadian history. It is *our* history, *our* shaping of the new world...As such, it is critical that non-Aboriginal people study and write about the schools, for not to do so on the premise that it is not our story, too, is to marginalize it as we did to Aboriginal people themselves, to reserve it for them as a site of suffering and grievance and to refuse to make it a site of introspection, discovery and extirpation – a site of self-knowledge from which we understand not only who we have been as Canadians but who we must become if we are to deal justly with the Aboriginal people of this land.³³⁷

Despite a Royal Commission, media coverage of IRS trials, numerous histories published by IRS survivors and scholars, the vast majority of Canadians remain “ignorant” about the history of Indian residential schools. But the way in which Canadians as a society respond to the substantive harms perpetrated against Indigenous peoples as a consequence

³³⁷ John S Milloy, "a National Crime" *the Canadian Government and the Residential School System, 1879 to 1986* (Winnipeg, Manitoba: The University of Manitoba Press, 2001), xviii.

of the residential school system will be a significant factor in determining the course of Indigenous-Settler relations in the critical years ahead. Indigenous peoples demand not just legal but political and moral accountability – moral justice – for injustices committed against them in the past that continue today. If we fail to provide moral justice for residential school survivors, their families and communities, and ignore the need for meaningful apology, group reparations, and truth-telling as key to Canadian political and moral accountability, then Indigenous peoples may rightly ask how we can expect to reconcile other aspects of our relationship involving treaties, land claims and resource rights. Settlers should not underestimate the extent to which the residential school legacy speaks to the very heart of our troubled relationship. How we as a nation choose to deal with this legacy sends a strong message to Indigenous peoples about the integrity of our intentions towards them. From this perspective, the IRS legacy is not peripheral to the larger context of Indigenous-Settler relations, but rather the pivot upon which all else turns. What has been our response to date?

The long history of Indian residential schools is captured in numerous academic and government studies and in histories published by former students of the schools, which stand as testimony to the elegant violence that was developed and implemented in these institutions.³³⁸ These are not events of the distant past – this bitter legacy exists today in the lived experience of some 90,000 former students, many of whom are now elderly and ill. Federally administered schools, run by various church organizations until

³³⁸ In addition to Milloy, see for example, Elizabeth Furniss, *Victims of Benevolence: The Dark Legacy of the Williams Lake Residential School* (Vancouver: Arsenal Pulp Press, 1992); Celia Haig-Brown, *Resistance and Renewal: Surviving the Indian Residential School*, 6th ed. 1993 ed. (Vancouver BC: Tillacum Library: Arsenal Pulp Press Ltd., 1988); Suzanne Fournier and Ernie Crey, *Stolen from Our Embrace: The Abduction of First Nations Children and Restoration of Aboriginal Communities* (Vancouver: Douglas and McIntyre Ltd., 1997); Canada, *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1, Part 2, Ch. 10, “Residential Schools” http://www.aine-inac.gc.ca/ch/rcap/sg/sq28_e.html#100; J. R. Miller, *Shingwauk's Vision: A History of Native Residential Schools* (Toronto: University of Toronto Press, 1996); Law Commission of Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions*, (Minister of Public Works and Government Services, 2000).

1969, were established in the late 1800's and the last school did not close until 1996. The purpose of the schools was to educate Indigenous children for assimilation, removing them forcibly from their parents and communities to be sent to these "total institutions" where every aspect of life was controlled, just as George Manuel describes.³³⁹ In 1996, the *Report of the Royal Commission on Aboriginal Peoples* revealed the extent to which violence permeated every aspect of the residential school experience.

At the heart of the vision of residential education – a vision of the school as home and sanctuary of motherly care – there was a dark contradiction, an inherent element of savagery in the mechanics of civilizing the children. The very language in which the vision was couched revealed what would have to be the essentially violent nature of the school system in its assault on child and culture. The basic premise of resocialization, of the great transformation from 'savage' to 'civilized', was violent. "To kill the Indian in the child", the department aimed at severing the artery of culture that ran between generations and was the profound connection between parent and child sustaining family and community. In the end, at the point of final assimilation, "all the Indian there is in the race should be dead." This was more than a rhetorical flourish as it took on a traumatic reality in the life of each child separated from parents and community and isolated in a world hostile to identity, traditional belief and language. The system of transformation was suffused with a similar latent savagery – punishment...In the vision of residential education, discipline was curriculum and punishment an essential pedagogical technique.³⁴⁰

The Commission called for a public inquiry to address the damaging legacy of the residential schools. In that same year, the first 200 IRS litigation claims were filed, and a new Residential Schools Unit was established in the Department of Indian Affairs and Northern Development (DIAND).³⁴¹ In 1998, the government of Canada responded to the

³³⁹ Jennifer J. Llewellyn, "Dealing with the Legacy of Native Residential School Abuse in Canada: Litigation, Adr, and Restorative Justice," *University of Toronto Law Journal* 52 (2002), 257-258; Canada, "Restoring Dignity: Responding to Child Abuse in Canadian Institutions." 22-35.

³⁴⁰ Canada, *Report of the Royal Commission on Aboriginal Peoples*, Vol. 1 Pt 2, Ch 10, Residential Schools http://www.aine-inac/gc.ca/ch/rcap/sg/dq31_e.html

³⁴¹ For a detailed chronology and historical overview, see Canada, Indian Residential Schools Resolution Canada, "Key Events," http://www.irsr-rqpi.gc.ca/english/key_events.html (accessed April 5, 2005).

RCAP report, rejecting the public inquiry recommendation and issuing a policy response instead. In *Gathering Strength: Canada's Aboriginal Action Plan*, DIAND announced \$350 million in funding to establish the Aboriginal Healing Foundation to support community-based IRS healing initiatives.³⁴² The Minister of DIAND at the time, Jane Stewart, also issued a Statement of Reconciliation, acknowledging the devastating impacts of the residential school system that "separated many children from their families and communities and prevented them from speaking their own languages and from learning about their heritages and cultures."³⁴³ The statement met with very mixed reactions as many Indigenous people said that the wording was too qualified to constitute a sincere apology. Moreover, they said that nothing less than a full apology delivered by the Prime Minister of Canada would be adequate.³⁴⁴

In the face of growing litigation, DIAND began to explore the potential for using ADR as a mechanism to resolve IRS claims outside the courtroom in a less adversarial environment that would also be timelier and more cost-effective. In 1998/99, a series of eight Exploratory Dialogues were held across Canada, involving IRS claimants and their legal counsel, First Nations leaders, church representatives and government officials. A set of guiding principles for working together was agreed upon and formed the basis for establishing twelve ADR pilot projects.³⁴⁵ In summary, the principles state that any ADR process developed must be voluntary and:

³⁴² Canada, Indian Affairs and Northern Development, *Gathering Strength: Canada's Aboriginal Action Plan*, (1998) http://www.aime-inac.gc.ca/gs/index_e.html

³⁴³ The complete text is available at Canada, "Statement of Reconciliation," (Indian Affairs and Northern Development, 1998) http://www.ainc-inac.gc.ca/gs/rec_e.html (accessed April 4, 2005)

³⁴⁴ On the issue of apology, see for example, Nicholas Tavuchis, *Mea Culpa: A Sociology of Apology and Reconciliation* (Stanford: Stanford University Press, 1991).

³⁴⁵ Canada, Indian Affairs and Northern Development (2000) *Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims*, (2000).

...designed to provide for disclosure with safety; validation with sensitivity; remedies with flexibility; commemoration with respect; and healing, closure, reconciliation and renewal...(A)ppropriate remedies...for abuse (must) further the goals of healing, closure, and reconciliation (and) may include: monetary compensation; acknowledgement of wrong done; apologies; creation of funds for healing, education and cultural recovery for survivors and their families; effective access to training and other programs; memorialization and community ceremonies; commitment to future prevention activities by government, churches and communities.³⁴⁶

The pilot projects were a concerted attempt, however imperfect, to give participants more control over the process, enabling them to negotiate settlement packages that would include monetary and non-monetary components of redress. According to an independent evaluation report on the pilot projects that was conducted in 2002:

The projects were intended to enlarge the thinking about what might be possible in resolving abuse cases outside of litigation, and to ensure that survivor groups had a meaningful voice in determining how their stories were told and their redress was determined...Although each of the projects is required to go through a validation phase and provide redress for validated claims, the nature of the process and the components of the redress package are major topics of negotiation.³⁴⁷

The pilot projects were however, still subject to all the limitations of a litigation-driven, tort-based approach to settling IRS claims. For example, in assessing the benefits for survivor participants, the report found that the restrictions imposed by the federal mandate for monetary compensation was highly problematic for survivors. However, there was a high degree of flexibility built into the pilots with regard to the non-monetary aspects of the redress package.³⁴⁸

³⁴⁶ Ibid.

³⁴⁷ Kaufman, Thomas & Associates "Review of Indian Residential School Dispute Resolution Projects. Final Report. Executive Summary," Canada, Indian Residential Schools Resolution Canada. (2002), http://www.irsr-rqpi.gc.ca/english/pdf/Final_Report_October_11.pdf (accessed December 3, 2005), 2-3.

³⁴⁸ Ibid., 12.

In 2000, the Law Commission of Canada published a report on institutional child abuse, and a major part of the report focuses on Indian residential schools. The Commission considered the advantages and disadvantages of a range of processes within criminal and civil litigation including settlement and ADR conducted “in the shadow of the law,” (that is, claims ultimately still subject to resolution in the judicial process),³⁴⁹ public inquiries and truth and reconciliation commissions. The Commission identified the broader systemic problems that must be addressed and established criteria for designing processes that are also consistent with those articulated in the Exploratory Dialogues.³⁵⁰ The Commission looked at redress programs which it defined as:

...any program designed specifically to provide financial compensation and complementary non-monetary benefits to survivors and others harmed by institutional child abuse...Redress programs have certain affinities with truth commissions in that they seek to develop and provide forms of redress that promote healing and reconciliation. But they are also intended to provide financial compensation to survivors – usually by means of an *ex gratia* payment. They also have affinities with community initiatives that respond directly to the specific needs of survivors, their families and their communities. But they have this difference: they are not voluntary grassroots processes, but are official responses to the threat of civil liability. They typically find their legal foundation in a government policy decision...³⁵¹

Overall the Law Commission report indicates that civil litigation is limited in its capacity to respond to the broader range of systemic issues related to the residential school experience including cultural loss and intergenerational harms suffered as a result of government policy and practice. These require a broader societal response.

Canadian legal scholar Jennifer Llewellyn critiques the use of ADR to address IRS claims to caution that such an approach is highly problematic. She explains the shortcomings of using a corrective justice model – a tort-based approach - to IRS claims

³⁴⁹ Canada, *Restoring Dignity: Responding to Child Abuse in Canadian Institutions*, 157-160.

³⁵⁰ *Ibid.*, 249-279.

³⁵¹ *Ibid.*, 303-304.

which focuses narrowly on settling individual litigation claims with monetary compensation for damages.³⁵² In contrast, Llewellyn points out that restorative justice makes the restoration and repair of relationship central:

Settling abuse claims is only one (and, in some cases, a minor part) of what the parties seek. The abuse suffered by residential school students was the result of a relationship of inequality, oppression, and disrespect between the Canadian government, its citizens, the churches, and Aboriginal peoples. The restoration of this relationship to one of mutual concern, respect, and dignity is what victims seek first and foremost, and any process must have this as its goal or it will not resolve the conflict between the parties and may, in fact, make it worse.³⁵³

Thus she links the demand for moral justice to a restorative justice approach that is better suited to deal with the kinds of relational harms, systemic conflict and abuses that characterize the residential school experience. In doing so, she notes that restorative justice models are also more congruent with Indigenous methods for addressing conflict and restoring peaceful relations.³⁵⁴ The federal government had already rejected the possibility of a public inquiry or any type of broad truth and reconciliation process. Rather its response is more akin to that of a redress program as described by the Law Commission. The National Resolution Framework, with its component streams of ADR, litigation, health supports, and commemoration is primarily a response to legal liability.

In 2001, IRSRC was established as a new federal department to deal exclusively with IRS claims. In 2002, Canada announced a National Resolution Framework (NRF) designed to resolve the majority of sexual and physical abuse claims through a new ADR program. The NRF encompasses litigation and the ADR program (launched in November

³⁵² Llewellyn, "Dealing with the Legacy of Native Residential School Abuse in Canada: Litigation, ADR, and Restorative Justice." 270-272. See also Jennifer J. Llewellyn and R. Howse, "Restorative Justice - a Conceptual Framework" (Ottawa: Law Commission of Canada, 1998).

³⁵³ *Ibid.*, 281.

³⁵⁴ *Ibid.*, 290-292.

2003), a health support and form-filler program, and a commemoration program which, at the time of this writing, is still under development. The ADR program is an adjudicated resolution process wherein claims are presented to a neutral adjudicator who then renders a decision and awards compensation determined on a grid that was developed using existing case law. This western ADR neutrality model is based on tort law rather than a restorative justice model that might have been adopted for resolving these claims.³⁵⁵ IRSRC's expectation is that the majority of claimants will choose to resolve their claims through the ADR program. Although 90% of claimants also cite cultural loss in their claims, Canada does not provide individual compensation for this critical aspect of the residential school experience because cultural loss is not recognized as a legal cause of action. Rather the federal government has developed a policy and program response to the systemic damage done in the residential schools. The health support program provides counseling services for survivors involved in either litigation or the ADR program. The commemoration program is intended to fund culturally appropriate community-based initiatives that honour and remember former IRS students, support healing and reconciliation, and provide an opportunity for apologies to be made by government and churches. Its mandate also encompasses educating the Canadian public about the history of Indian residential schools. In 2002, the department of Canadian Heritage also announced \$172.5 m in funding to create an Aboriginal Languages and Cultural Centre to

³⁵⁵ Andrew Pirie, legal scholar and ADR expert, defines adjudication as "Any dispute resolution process in which a neutral third party hears each parties evidence and arguments and renders a decision that is binding on them. This decision is usually based on objective standards. The term adjudication includes arbitration and litigation." Restorative justice, he says, "would emphasize reconciliation for both the perpetrators and victims of crime. Healing would be added to the pre-existing goal of rehabilitation within the criminal justice system. Restorative justice can be related to ideas of reconciliation and can be thought to have some genesis in Aboriginal justice systems or the values of various faith communities." Andrew Pirie, *Alternative Dispute Resolution: Skills, Science, and the Law* (Toronto, ON.: Irwin Law Inc., 2000), 47, 51. It should be noted that in the IRSRC ADR program, the adjudicator's decision is not binding. The claimant is free to pursue litigation if they do not agree with the disposition of their claim. Claimants, government or participating churches may ask for a review of a claim. For the ADR guide, application forms, information on health support program, etc, see the IRSRC website at <http://www.irsr-rqpi.gc.ca>

“address issues of the loss of traditional languages and cultures by Aboriginal peoples, including those who attended Indian Residential Schools.”³⁵⁶ Together, all of these programs and initiatives are meant to be a comprehensive response to the totality of the residential school legacy. Why then, did the ADR program generate such controversy, ill will and anger?

The rationale for the ADR program was that it would be a less adversarial, cost-effective and timelier approach than litigation to resolving IRS claims which would also support reconciliation. But the program, however well-intentioned, came under attack on a number of fronts. On November 17, 2004, the Assembly of First Nations (AFN) released a report produced by a blue ribbon panel tasked with evaluating the ADR program. The genesis of this report lies in the Calgary conference I describe above, where senior federal officials committed to further consultation with all parties.³⁵⁷ The report did not reject the ADR program out of hand as a mechanism for addressing sexual and physical abuse claims, noting that there were some positive aspects to the process, but said that changes must be made in several key areas. Moreover, it recommended a two-pronged approach to deal with the IRS legacy. First, a “lump sum payment” or group reparations, to be paid to all former students who attended a residential school, in addition to any individual compensation awarded for damages related to sexual and physical abuse. Second, a national truth-telling and reconciliation process is seen as critical not only to individual IRS survivors, families and First Nations communities, but to breaking the silence in a public forum - a joint dialogue of public history that engages

³⁵⁶ Canadian Heritage "Minister Copps Announces the Creation of an Aboriginal Languages and Cultures Centre," (2002) news release, December 19, 2002. http://www.pch.gc.ca/newsroom/news_e.cfm?Action=Display&code=2N0327E (accessed January 10, 2006).

³⁵⁷ Assembly of First Nations, "Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools," (Ottawa: 2004), <http://www.afn.ca/Residential%20Schools%20Report.pdf> (accessed January 10, 2006)

the broader Canadian public. The AFN report recommendations are congruent with the principles that had been articulated in the Exploratory Dialogues in 1998. Although government officials might believe that they have fulfilled the spirit and intent of these principles in the NRF and the implementation of the ADR program, many IRS survivors and their supporters say that, in fact, the opposite is true. From their perspective, designing a tort-based ADR program and continuing to pursue a corrective justice litigation strategy, while at the same time talking about its commitment to healing and reconciliation, are indicators that the government is engaging in the “double-speak” of colonial shapeshifting.

Perhaps the AFN report might have become just another consultation document to be shelved and forgotten, but several other factors emerged on legal and political fronts in conjunction with its release, to cast the ADR program in an increasingly unfavourable public light. Thus the dialogue on the ADR program shifted from the conference floor onto the floor of the House of Commons and from consultation meetings to formal meetings before the AANO Committee. In December, 2004, the Ontario Court of Appeal ruled that a \$2.3 billion class action suit brought forward by former students of the Mohawk Institute in Brantford, Ontario could be certified, allowing it to proceed to the next stage towards trial. In rendering this decision, the court noted that in order to meet certification requirements, plaintiffs must demonstrate that a class action is preferable to other “reasonably available means of resolving the claims.”³⁵⁸ Canada argued that the ADR program does constitute a more preferable method of resolving the claims. However, the court disagreed, saying that the ADR was “unilaterally created by one of the respondents in this action and could be unilaterally dismantled without the consent of the appellants. It deals only with physical and sexual abuse. It caps the amount of possible

³⁵⁸ *Cloud V. Canada*, (2004), 18.

recovery...It does not compare favourably with a common trial.”³⁵⁹ This decision had implications for a much larger national class action suit – the \$12.5 billion Baxter class action - that was also seeking certification. In January, 2005, the federal government appealed the Ontario court decision to the Supreme Court.

The House of Commons Standing Committee evaluates the ADR program

It was against this legal backdrop in an increasingly volatile political environment, that in February 2005, the House of Commons Standing Committee on Aboriginal Affairs and Northern Development (AANO) held hearings on Canada’s ADR program as part of a study on the effectiveness of the program. It is both ironic and tragic that a program which was supposed to resolve an historical injustice has itself become a source of deep public moral conflict. By this I mean that critics of the program argue that the broad systemic injustices and harms created by IRS policy and system demand a deeper moral response from Canadian society than the existing ADR program can deliver. We see this most clearly in the call for a public apology from the prime minister; group reparations for all IRS survivors to compensate for attendance at a school, and loss of language and culture; and a national reconciliation process for shared truth-telling and public education for all Canadians.³⁶⁰ It is paradoxical that although the ADR program is framed in the *language* of reconciliation - healing, redress, apology, relationship – the AFN report which was submitted to the AANO Committee in February 2005, concludes that, in substance, the program risks “...a very real danger that new harms in the relationship

³⁵⁹ Ibid., 23.

³⁶⁰ I do not provide a detailed analysis of all aspects of the ADR program. This has been done in the comprehensive critiques by the AFN and the Canadian Bar Association. See Assembly of First Nations, "Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools,"; Canadian Bar Association, "The Logical Next Step: Reconciliation Payments for All Residential School Survivors," (Ottawa: 2005), <http://www.cba.org/CBA/Sections/pdf/residential.pdf> (accessed January 10, 2006)

between First Nations, non-Aboriginal peoples, and the government will be created...(and) reconciliation will become impossible for the indefinite future.”³⁶¹ The report condemns the tort-based ADR program as an inadequate and harmful response not only to IRS survivors, their families and communities, but to all Indigenous peoples in Canada.³⁶² The Canadian Bar Association (CBA) which also submitted a comprehensive report to the AANO Committee, supported the AFN report recommendations, cautioning that the ADR program based on “(b)lame and faultfinding, harm, wrongdoing and compensation...concepts (that) inform tort law...(is) not conducive to reconciliation.”³⁶³ In its critique, the CBA report captures the essence of the paradox we face, saying simply that “(t)here are legal arguments and there is justice. It is time for justice.”³⁶⁴

On February 9, 2005, Conservative MP Jim Prentice stood in the House of Commons to ask for the government’s response to allegations that the ADR program was not working, that the costs associated with implementing the program were excessive and the results negligible. “Moreover,” he said, “it is not working for the victims. Newspapers in this country are replete with stories of residential school victims who feel they are being re-victimized by the process.”³⁶⁵ This media coverage increased public scrutiny on the Liberal government at a time when the high profile Gomery inquiry into alleged misspending of government program funds was foremost in the public mind and the

³⁶¹ Assembly of First Nations, "Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools," 14.

³⁶² *Ibid.*, 1-3, 20.

³⁶³ Canadian Bar Association, "The Logical Next Step: Reconciliation Payments for All Residential School Survivors," 16.

³⁶⁴ *Ibid.*, 20.

³⁶⁵ Canada, *House of Commons Debates* (9 February 2005), p. 1915 (Hon. Jim Prentice) http://www.parl.gc.ca/38/1/parlbus/chambus/house/debates/053_2005-02-09/HAN053-E.html (accessed April 5, 2005)

minority government in real danger of falling.³⁶⁶ At the same time, as we saw in the previous chapter, the prime minister was showcasing the Canada-Aboriginal Peoples Roundtable (CAPR) convened in April 2004, as an indicator of the new “transformative” relationship his government was building with First Nations through representative Aboriginal organizations, including the AFN.

During the AANO Committee hearings on the ADR program, in addition to the AFN and CBA, a number of other witnesses gave evidence, including IRS survivors, grass roots survivor organizations, the Aboriginal Healing Foundation, plaintiffs’ counsel, and senior government officials. We get a sense of the complex ways in which mimetic patterns of violence play out in the IRS context by analyzing the testimony of various witnesses and media coverage of the issue. Equally important, we see how parliamentary rituals of public debate and committee work in the House of Commons create a performative space for the history that is alive to unfold. The personal testimony of survivors compels parliamentarians to transcend partisan politics, however briefly, to recognize the humanity and presence of the IRS survivors whose stories they can no longer deny. Moreover, we see how Indigenous diplomatic rituals and legal traditions are used to legitimize the political agreement, a fact that received some negative attention in the media. The dismissive attitudes expressed in these stories obviously strikes a responsive chord in many Settlers, an indication of the high level of Settler denial of Indigenous history, law and peacemaking practices that still prevails in the public mind.

On February 15th 2005, in eloquent, powerful and moving testimony, Chief Robert Joseph, representing the Indian Residential School Survivors’ Society³⁶⁷ in British

³⁶⁶ For information on the Commission of Inquiry into Sponsorship Program and Advertising Activities, see the official website at <http://www.gomery.ca/en/index.asp>

³⁶⁷ The Indian Residential School Survivors Society is a grassroots non-profit organization that provides counseling support for IRS survivors, public education and outreach on residential school issues. See <http://www.irsss.ca/>

Columbia, speaks to an Indigenous vision of reconciliation:

As you can see, I was wearing my ceremonial robes as a sign of respect for your parliamentary traditions and the standing committee, of course... There are times when we as men and women are called upon to do the extraordinary, times when we must do the honourable thing, times when we are compelled to rise above the accustomed simple solution and to struggle to reach for the hard, principled one. These are such times. We call upon you and Canada to do this with us... ADR is indeed a better alternative to the courts. Beyond these, ADR falls far short in addressing the majority of survivor needs for comprehensive redress. As it exists, then, ADR is simply an imperfect and incomplete alternative... for survivors who have been sexually and physically abused... From a western and narrow legal perspective it could be said to be world class, but if it resolves little, it has little value. For us and Canada to turn the page on this chapter of our mutual history we need a broader response than the ADR can deliver. So here we must heed the survivor voices. For the past ten years over 40,000 survivors... have told us what that broader response should be: an apology, compensation, funding for healing, and future reconciliation. With respect to an apology, survivors want and need a full apology delivered by the Prime Minister on the floor of the House of Commons... For an apology to work, it must be understood and performed symbolically in terms of the ritual that it is. It must offer the potential for transformation of all involved. With a nationally imposed system like the residential school system, transformation cannot occur unless the key players in the ritual are involved – the apology, the Prime Minister, and the House of Commons... With respect to lump sum compensation, survivors are entitled to and want financial redress for the pain and suffering – loss of language and culture, loss of family and childhood, loss of self-esteem, addictions, depression and suicide – we've endured... By neglecting to address residential school survivors and forcing them through an onerous process like ADR, Canada accepts the risk of being accused of institutionalism racism yet again... While we struggle with our pain, our suffering, and loss, we know that our culture and traditions are embedded in the need for balance and harmony – reconciliation.³⁶⁸

Chief Joseph appears before the Committee wearing his ceremonial robes as a sign of political respect for the rituals of Parliament but also to send a symbolic message that reminds us that Indigenous diplomacy, law and peacemaking principles and protocols

³⁶⁸ House of Commons. Standing Committee on Aboriginal Affairs and Northern Development, "Study on the Effectiveness of the Government ADR Process for the Resolution of IRS Claims." Evidence. (February 15, 2005) <http://www.parl.gc.ca/infocomdoc/38/1/AANO/Meetings/Evidence/AANOEV18-E.HTM#Int-1128319> (accessed January 11, 2006)

exist, but are absent from the ADR program's design. He points out that his organization has been consulting with IRS survivors for ten years and that they have consistently put forward their vision of justice and reconciliation. He says, however, that despite consultations, the government has not really listened to IRS survivors, preferring instead to implement a highly bureaucratic, legalistic form of ADR that will lead to further alienation, not reconciliation. He suggests that while the ADR program is better for IRS survivors than a trial would be, it is still an onerous process that survivors engage in only because it is less horrendous than litigation. In calling on parliamentarians to do the hard, principled thing, Chief Joseph asks for leadership and vision, he asks Canadians to transcend colonialism and to do the honourable thing. In both word and action, he identifies our failure to heed the symbolic importance of ritual and apology in addressing the history of racism and injustice, thus preventing any meaningful reconciliation.

On February 17, 2005, the Committee also heard from several other IRS survivors whose testimony reinforced Chief Joseph's message, describing their own experiences both in residential schools and with the ADR process. In coming forward with their testimony, these survivors put a human face on the residential school legacy. In the recorded minutes of the hearings, Ms. Flora Merrick, an 88 year-old elder whose ADR claim was appealed by the federal government, told the Committee:

I cannot forget one painful memory. It occurred in 1932 when I was 15 years old. My father came to the Portage la Prairie residential school to tell my sister and I that our mother had died and to take us to the funeral. The principal of the school would not let us go with our father to the funeral. My little sister and I cried so much, we were taken away and locked in a dark room for about two weeks. After I was released from the dark room and allowed to be with other residents, I tried to run away to my father and family. I was caught in the bush by teachers and taken back to the school and strapped so severely that my arms were black and blue for several weeks. After my father saw what they did to me, he would not allow me to go back to school after the school year ended. I told this story during my ADR hearing, which was held at Long Plain in July 2004. I was told that my treatment and punishment was what they called "acceptable standards of the day". I was raised in a close and loving family before I was taken away to a residential

school, and being strapped until I was black and blue for weeks and being locked in a dark room for two weeks, to me, is barbaric. I was told that my experiences did not fit into the rigid categories for being compensated under the ADR. However, the adjudicator, Mr. Chin, after hearing my story at my hearing, awarded me \$1,500. The federal government appealed to take even this small award from me. I was willing to accept the \$1,500 award, not as a fair and just settlement, but only due to my age, health, and financial situation. I wanted some closure to my residential school experience, and I could also use the money, even as small as it was. I am very angry and upset that the government would be so mean-spirited as to deny me even this small amount of compensation. I instructed my lawyer... to withdraw me from the ADR, not to appeal, and to place me in the national class action suit once it was certified. I'm very upset and angry, not only for myself, but also for all the residential school survivors.³⁶⁹

After hearing Ms. Merrick and other IRS survivors, even the dry pages of recorded evidence manage to convey the fact that Committee members were moved, perhaps even temporarily unsettled, by this testimony as they invoke the moral language of justice in their responses to the witnesses:

Lloyd St. Amand (Liberal):

If one of your purposes in coming today was to bring alive for all of us these accounts, these memories, if part of your reason in coming was to put a very human, brave face on the abuses of the past, trust me, you have succeeded beyond your wildest expectations. For me, and I dare say for others, the accounts that you verbalized to us, which to this point we've only read about, are now very much alive. You have very much encouraged us, motivated us, to immediately and quickly get something done to deal with this abuse in the most fair, equitable fashion possible.

Bernard Cleary (Bloc Quebecois):

The government refuses to face the facts and raises a thousand and one questions on this issue. The government should recognize it made a mistake. What can I say? It made a mistake, and that is terrible. The primary concern of elders in discussing this matter is that they be offered an apology, if only to comfort them. Money is fine, but the satisfaction it gives someone when what they have been

³⁶⁹ House of Commons, Standing Committee on Aboriginal Affairs and Northern Development, "Study of the Effectiveness of the Government ADR Process for the Resolution of IRS Claims." Evidence. (February 17, 2005) <http://www.parl.gc.ca/infocomdoc/38/1/AANO/Meetings/Evidence/AANOEV19-E.PDF> (accessed January 11, 2006).

saying all their life is recognized as true is worth much more. It does not cost much for a responsible government to say that mistakes were made and that those were monumental mistakes that the country cannot tolerate... Let us settle this matter once and for all. What matters most is not an extra \$200 million or even an extra \$1 billion. What matters most is to ensure that people, like you, who have lost their whole life— When I look at Ms. Merrick and her daughter as well as Ms. Daniels and hers, I see three generations of people who have suffered the same problems. How appalling is that! Three generations have gone through the same problems, suffered the same hardship and had an equally hard time overcoming them. I could have sobbed like a child earlier, listening to this story, because I could feel how terribly difficult it was for the witnesses to recall memories they would rather forget, but are unable to.

Carol Skelton (Conservative Party of Canada):

This is my second term in the House of Commons, and the Tuesday's committee and today's committee have been the hardest days of testimony I have sat through in this House of Commons, because I feel the last two days have shown me totally how much injustice has been done to each of you. From the bottom of my heart, I say how sorry I am for that. I do wish the Minister of Indian Affairs and Northern Development and our Prime Minister had been here this morning to hear these beautiful, courageous ladies say what they said. Mr. Troniak said you have been denied justice, that you were prisoners of the system. I'm taking words out of the testimony this morning. What has happened is disgraceful, and I say to the government of the day: Have you no shame? It is totally unfair to have your name changed by a school because they didn't like your name, to be beaten so badly, and to not be allowed to attend your own mother's funeral. My mother, Mrs. Merrick, is your age. She never, ever had to undergo the injustice you had to undergo, and that's not fair. It's not right, and it's the responsible thing for the government to stand up and do what's right.

Pat Martin (New Democratic Party):

The Assembly of First Nations has pointed out how wrong the current process is and that it's not only failing but it's wrong in principle and in concept... What I'm getting at is that a key part of the proposal from the Assembly of First Nations is not only the money. I think you're getting consensus here that eligibility for compensation should only be based on proof of attendance. If you can show that you were a student during these periods at these residential schools, we can assume that you've been victimized and no one else will make you relive that... The second thing that the Assembly of First Nations is calling for is a truth

and reconciliation healing process, not only for you to tell your story and hopefully tell the world what happened, but for us too, for the general population, for Canadians to be part of that healing process. I think I can safely say that if you could get these stories to average Canadians, you would tap into a great deal of goodwill, because no one in this room will ever forget what we've heard today. If, as you say, there are thousands of those stories, and worse, I think your average Canadian will move swiftly and quickly.³⁷⁰

These excerpts give us a sense of the power of testimony that is direct, unfiltered by the legal and bureaucratic processes that shape the individual and collective narrative of the IRS legacy in ways that conform to their own requirements. In coming forward, Ms. Merrick explains that she accepted the original award, not because she felt that justice was being done, but because it was of some small comfort and assistance to her. Parliamentarians, and indeed all Canadians, must ask how many other IRS survivors feel the same about their settlements. If we multiply this by thousands, surely we are a very long distance from “transformative new partnerships,” healing and reconciliation with Indigenous peoples.

Government Perspectives on the ADR Program

In the afternoon, the Committee heard briefly from the Hon. Ted Hughes, Chief Adjudicator for the Indian Residential Schools Adjudication Secretariat, which is tasked with adjudicating the IRS claims in the ADR program. Mr. Hughes explained the essence of the independent, neutral ADR program from the Secretariat's perspective.

I think you perhaps know that the essence of it is to expedite the matter, and while files go to Ottawa when the applicant fills out the application form, they ultimately come to our secretariat. I can assure you that insofar as I am concerned and the 48 adjudicators who work with me are concerned, our secretariat is independent of government. Granted, I suppose, we were confirmed by government, by contracts, after those stakeholder groups selected us, but the

³⁷⁰ Ibid.

government doesn't tell us what to do, other than the fact that has been very adequately pointed out here today, that we have to work within the model given to us by the government. Those are the constraints we're under. We can only make awards and so on within the terms of the model that was set out, and we cannot stray beyond that. I think perhaps it's appreciated that the key of our process is that it's a non-adversarial model, where the claimant is questioned only by the adjudicator, and we endeavour to do this in a sensitive and relaxed manner. We will go to the claimant's home if that's the most suitable. We've had hearings in hospitals, on reserves, and in other public facilities in communities and so on. Our whole idea is to try to make the claimant who comes forward to tell a very painful story, along the lines of those we've heard here today, to feel as relaxed as they can. Time doesn't permit me to go into the constraints under which we operate insofar as the areas we can deal with are concerned. You've heard it said today that in the main our mandate is limited to physical and sexual abuse cases, with some claims for wrongful confinement.³⁷¹

Mr. Hughes testimony is of particular interest in light of Ms. Merrick's testimony. He says that the adjudication secretariat is independent from government, but that it is constrained by the terms of the ADR model that has been established to compensate for sexual and physical abuse. As we see in Ms. Merrick's case, when the adjudicator stepped outside these constraints after hearing her story, the government appealed his decision, no doubt concerned that it would set a precedent for other claims. When the elder gives her testimony to the AANO Committee, they too, like the adjudicator, are moved by her story of a profound injustice has been perpetrated both in the original offense and in her experience within the ADR program. Regardless of whether or not the government deemed its actions justifiable in strictly legal terms, in the court of public opinion their actions are deemed indefensible. Her IRS claim is one of thousands that will not meet the strict criteria of compensability under tort law, yet as human beings we know instinctively that a deep injustice has occurred that must be made right. If one doubts that violence still lies at the heart of Indigenous-Settler relations, Ms. Merrick's testimony is stark evidence that new forms of elegant violence and institutional racism are now being perpetrated

³⁷¹ Ibid.

against Indigenous peoples, made all the more insidious because they are cloaked in the language of healing and reconciliation.

Mr. Hughes' testimony also raises questions that First Nations, scholars and researchers have deemed highly problematic in other government claims settlement processes.³⁷² In an analysis of the attempts over the last 60 years to create an independent land claims tribunal, Leigh Ogston Milroy notes that despite several proposals that call for a broad, inclusive mandate for such a tribunal to address the full range of historical grievances, "...the tendency within government, particularly in the Department of Justice (DOJ) and central agencies, appears to have been to constrict the focus to minimal legal obligation..."³⁷³ The large volume of IRS claims represent a significant legal liability for the federal government which has limited the scope of liability for physical abuse to punishment that falls outside the "acceptable standards of the day" such as that which Ms. Merrick suffered. Systemic harms such as cultural loss, substandard living conditions, poor education and intergenerational damage that had such devastating impacts on the lives of Indigenous peoples, are deemed non-compensable. The government has developed a programmatic response that is supposed to address these aspects of the IRS legacy. With regard to consultation, Ogston Milroy says that despite considerable technical work done by First Nations on specific claims legal and policy issues, their views have been "repeatedly disregarded" by government.³⁷⁴ The resulting claims settlement processes are not jointly developed. Rather government consults with

³⁷² See for example, Angus, *"and the Last Shall Be First": Native Policy in an Era of Cutbacks*. Michael Asch and Norman Zlotkin, "Affirming Aboriginal Title: A New Basis for Comprehensive Claims Negotiations," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*, ed. Michael Asch (Vancouver: UBC Press, 1997); Leigh Ogston Milroy, "Towards an Independent Land Claims Tribunal: Bill C-6 in Context," (Institute for Dispute Resolution, University of Victoria: 2002); Wayne Warry, *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government* (Toronto: University of Toronto Press, 1998).

³⁷³ Ogston Milroy, "Towards an Independent Land Claims Tribunal: Bill C-6 in Context," 5.

³⁷⁴ *Ibid.*, 6.

First Nations and then unilaterally designs and implements the particular process or program. In the case of residential schools, First Nations reiterate the same concerns about consultation and the unilateral development of the ADR program. They say that while they may have been consulted, they have not been heard despite government claims to the contrary. On another front, conflict of interest issues have also received considerable attention with regard to both specific claims³⁷⁵ and IRS cases. In the latter instance, the CBA report points out that the procedural framework of the ADR program itself is unfair - biased in favour of government who acts as a gatekeeper, setting the criteria, screening applications and determining eligibility of claims. Thus the government decides which claims will be forwarded to the Adjudication Secretariat.³⁷⁶ Because of time constraints, the Committee did not pursue these issues with Mr. Hughes, but in his response to the Chief Adjudicator, Mr. Lunn, aptly summarized the parliamentarians' reactions to survivor testimonies and the questions they raise with regard to the efficacy of the ADR program as an effective means to settle IRS claims:

Gary Lunn (Conservative Party of Canada):

First of all, Mr. Hughes, my questions are all directed at you. We heard the most gut-wrenching testimony this morning that it would make anyone's skin crawl. The only conclusion is that this system has failed miserably. I appreciate that you're saying that once you get the application, you're trying to do it in three months. But these are applications from people who are very elderly. There's the process that the applications go through, whereby they're checked, investigated, etc. I don't know how long it takes before they even get to you. The stories we heard this morning were just horrific. Again, some of the statements that were made by some of the claimants that this wasn't considered abuse at the time it

³⁷⁵ Ibid., 15.

³⁷⁶ Canadian Bar Association, "The Logical Next Step: Reconciliation Payments for All Residential School Survivors." 40. Similar criticisms have been leveled against government about actual or perceived conflict of interest in the Specific Claims process for example. See Ogston Milroy, "Towards an Independent Land Claims Tribunal: Bill C-6 in Context."

happened just simply aren't acceptable. And I don't want to get into all the specifics because we simply don't have time. In terms of the amount of claims coming forward—and I include the ones that have gone off to the department—I think we're well over a thousand, as you've pointed out. A very small number have actually been settled. As was pointed out by Mr. Faulds,³⁷⁷ I believe, we're in a crisis. He used the word “crisis”. We had better act very quickly to correct that crisis and identify the problems. Not coming up with solutions before people are going to their graves is just not okay. Every single member on this committee, from every single party, will concur about what we heard this morning. I will say that, based on some of the most credible testimony that I've heard in seven years as a parliamentarian, this process has failed miserably.³⁷⁸

After hearing the testimony of IRS survivors and others who delivered a strong message that the ADR program was fundamentally flawed, the Committee heard a very different story from Minister Anne McLellan when she appeared before them on February 22, 2005. The familiar, mythic language of the benevolent peacemaker echoes in her testimony as she attempts to justify the program's rationale and results.

Previous governments largely ignored this issue. In response to the Royal Commission, however, the Government of Canada developed a specific and innovative strategy to address, in a comprehensive way, this troubled legacy. Our goals, then, as now, included opening pathways to healing and reconciliation by apologizing, by compensating, and making that process less difficult for those who have suffered. These values are reflected in the priorities this government has set for improving the lives and conditions of all aboriginal people. The round table, hosted by the prime minister...and our ongoing work with each of the national aboriginal organizations clearly demonstrate this government's commitment to build a partnership with aboriginal people. Together, we will make steady progress toward improving the lives of aboriginal people.³⁷⁹

³⁷⁷ House of Commons. Standing Committee on Aboriginal Affairs and Northern Development, “Study of the Effectiveness of the Government ADR Process for the Resolution of IRS Claims.” Evidence. (February 17, 2005) <http://www.parl.gc.ca/infocomdoc/38/1/AANOV19-E.PDF> (accessed January 11, 2006). Mr. Lunn refers to Jon Faulds, who also appeared as a witness, representing the National Consortium of Class Action Counsel.

³⁷⁸ Ibid.

³⁷⁹ House of Commons. Standing Committee on Aboriginal Affairs and Northern Development, “Study of the Effectiveness of the Government ADR Process for the Resolution of IRS Claims.” Evidence. (February 22, 2005) <http://www.parl.gc.ca/committeePublication.aspx?SourceID=126503> (accessed January 11, 2006).

The Minister then offers a short history of the evolution of IRS claims policy and the development of the National Resolution Framework and ADR program, with references to RCAP recommendations, Canada's Statement of Reconciliation, the Exploratory Dialogues, ADR pilot projects and the creation of IRSRC. She emphasizes the high degree of consultation that has occurred with other "stakeholders" including IRS survivors and their lawyers, and senior church officials, and reiterates the need to validate claims in order to be fiscally accountable to Canadians. The Minister describes the various programs included in the National Resolution Framework and claims that "(o)ur ADR approach is groundbreaking, a culturally based humane and holistic way to provide additional choices for former students who are seeking compensation for sexual and physical abuses." She points out that the government is consulting with the AFN concerning the recommendations it has tabled and is "considering the additional costs of the AFN proposal" with regard to the lump sum payment to all IRS former students. Ms. McLellan concludes by saying that "All you have heard from every witness argues in favour of approaches that are flexible and which demonstrate a willingness on the part of all parties to listen."³⁸⁰ Yet based on the testimony of IRS survivors who appeared before the Committee and the negative response to the program in First Nations communities, one has to ask if the government was truly listening to what IRS survivors were telling them about the best way to address the IRS legacy. Its legal and bureaucratic rationalization of the ADR program seems to replicate ingrained cycles of violence and colonial patterns of behaviour wherein the more powerful party ultimately controls the framework, scope, design and substance of the process that is established.

A survey of press coverage provides a sense of the complex political and legal environment that overlays debate on the residential school issue during this time period. An article in the *Globe and Mail* on February 23, 2005, for example, proclaimed

³⁸⁰ Ibid.

“McLellan under attack over native-school redress.” Journalist Bill Curry, reporting on the AANO Committee meetings, writes that:

Sandwiched between emotional testimony from aboriginals who say Ottawa is taking a heartless approach to compensating residential school victims, Deputy Prime Minister Anne McLellan told a Commons committee that the government’s “groundbreaking” program is working well... The minister said she is costing a proposal from the Assembly of First Nations to compensate all former students of residential schools for loss of language and culture, but expressed concerns about the approach. Currently, the government compensates only those who can prove they suffered physical or sexual abuse at the schools, and Ms. McLellan said that loss of culture is not a “recognized legal cause of action” in Canada. In responding to questions about the merits of a lump-sum payment, Ms. McLellan said any new plan must require natives to prove their claims. “Otherwise, I’d be before another committee responding to an auditor-general’s report.” Opposition MPs lashed out at the minister, pointing out that previous testimony from former students and organizations such as the Canadian Bar Association, shows that the government’s plan does not work and that far more is being spent on bureaucracy than on payouts... Calling it the “most disgraceful, harmful, racist experiment ever conducted in our history, the normally subdued chief (AFN National Chief Phil Fontaine) struggled to discuss the topic... “I know what over 150,000 of my people lived through, and I resent the need for us to tell our heart-wrenching stories over and over again in order to convince you of their truth. I resent being told that Canada can’t afford to pay survivors the compensation we are owed”... Conservative MP Jim Prentice said Ms. McLellan appears to be the only person who thinks the government’s plan works. “What we have heard as a committee has moved us, appalled us and shamed us.”... Other Opposition MPs offered similar comments...³⁸¹

Thus the article captures the essence of the debate played out in a convoluted mix of national Settler politics, legal complexities, and fiscal accountability to Canadians, on one hand, and the Indigenous call for material and symbolic justice, on the other. Linking

³⁸¹ Bill Curry, “McLellan under Attack over Native-School Redress,” *Globe and Mail*, Sec A11, February 23, 2005. <http://www.jimprentice.ca/Documents/Feb23Globe.htm> (accessed January 11, 2006). See also, James Travers, “Indian Abuse Claims Turning into Fiasco,” *Toronto Star*, February 17, 2005 <http://www.jimprentice.ca/Documents/Feb17Media.htm> (accessed January 11, 2006); Paul Samyn, “School Abuse Delays Lashed Aboriginals Suffering, Fontaine Tells MPs,” *Winnipeg Free Press*, sec. A3, February 23, 2005. <http://www.jimprentice.ca/Documents/Feb23FreePress.htm> (accessed January 11, 2006); Cristin Schmitz, “Government Takes Heat for Inaction over Abuse Claims,” *National Post*, February 23, 2005.

back to Kertzer's observation that political controversy is primarily a disagreement over *which* myth to apply to a particular political problem, it is also about how the same myth can be invoked variously by different parties.

In this instance, we see traces of the benevolent peacemaker myth in the rhetoric of government officials proclaiming the efficacy of yet another bureaucratic "solution" to a particularly thorny aspect of the Indian problem. Ms. McLellan, clearly on the political defensive, insists that Canada has developed a superior administrative, bureaucratic solution. At the same time, she is careful to assure Canadians that the government is still the arbiter of a neutral, adjudicative justice in which IRS survivors will have to prove their claims like anyone else. There is no recognition of the need for a truth-telling and reconciliation process. Although Opposition MPs express empathy for IRS survivors as the victims of historical injustice, they are equally concerned to use the ADR program as yet another example of bloated Liberal bureaucracy and misspending. Conversely, National AFN Chief Fontaine employs the language of moral justice, reminding Canadians that the IRS policy had devastating impacts, and suggesting that the ADR program denies Indigenous history and truth, requiring IRS survivors to keep retelling their experiences in order to "validate" their claims of historical injustice and abuse. In the time leading up to the tabling of the report, media coverage criticizing the ADR program kept the issue in the public eye, ensuring that political pressure remained high and reminding Canadians that the IRS legacy is still very much alive. One such report noted that:

survivors' stories...rip the smugness out of being Canadian...the cumulative effect of that evidence was so compelling that a compromise Conservative motion was adopted by the committee after a determined filibuster by Pat Martin, the Winnipeg NDP...Some witnesses told the committee that process so completely dominates results that the sole-purpose department is spending about \$4 on administration for every \$1 it pays victims. Martin's way out of a mess that is also a national shame is relatively painless. As almost everyone with intimate

knowledge of the system advises, the solution lies not in wasting millions to ensure that no one gets one cent more than warranted but in righting a wrong, on healing and reconciliation.³⁸²

All the signposts indicated that the AANO report would not look favourably on the new ADR program that had been put forward by Canada with high expectations of success. Given the volatile political climate in which a Canadian public was growing increasingly angry over alleged Liberal government misspending, waste and duplicity in a range of programs, it seemed obvious that changes would have to be made.

Consequently, it came as no surprise that the ANNO Committee was unconvinced by the Minister's reassurances, and its report, tabled in the House of Commons on April 7th, 2005, was scathing in its condemnation of the ADR program. The report made eight recommendations, the primary one being that the program be terminated. It stopped short of recommending the "lump sum" payments recommended by the AFN and CBA. Rather it recommended court-supervised negotiations be undertaken "to achieve a court-approved, court-enforced settlement for compensation that relieves the Government of its liability..." The report was silent on the issue of an apology, but did recommend "(t)hat the Government, to ensure that all former students have the opportunity to tell their stories to all Canadians in a process characterized by dignity and respect, cause a national truth and reconciliation process to take place in a forum that validates the worth of the former students and honours the memory of all children who attended the schools."³⁸³ In producing the report, the Committee itself became embroiled in political wrangling as

³⁸² James Travers, "Martin's Chance to Atone for Native Abuse," *Toronto Star*, March 31, 2005. <http://www.thestar.com> (accessed March 31, 2005) See also Cristin Schmitz, "Opposition Unites on Residential School Vote," *Times Colonist*, March 24, 2005.

³⁸³ Canada, House of Commons. Standing Committee on Aboriginal Affairs and Northern Development, "Fourth Report. Study on the Effectiveness of the Government ADR Process for the Resolution of IRS Claims," (Ottawa: 2005). <http://www.parl.gc.ca/Committee/CommitteePublication.a.spx?SourceID=107649&hang=1> (accessed January 11, 2006).

Liberal members of the Committee refused to endorse the report, and the NDP fought to have lump sum payments and an apology included. Thus the final report represents a compromise on the part of Opposition members who, despite their political differences agreed that it was important that the issue be brought before the public in the House of Commons.³⁸⁴ The Committee relied upon the comprehensive reports submitted by the AFN and the CBA, and made clear the relative weight they gave to the testimonies of IRS survivors vis-a-vis the Minister.

The Committee took particular note, in formulating the recommendations below, of the written and oral evidence of the former students and the representatives of former students and survivor organizations regarding their personal experiences in the residential schools and in the Indian Residential School Resolution Canada ADR process. The witnesses were compelling for their candour and integrity about their experiences as inmates in the residential school system and fair, frank and persuasive on matters of public policy... The Committee took particular note, in formulating the recommendations below, of the written and oral evidence of the Minister... The evidence was contradictory with respect to financial and case-resolution performance numbers of the Indian Residential School Resolution Canada ADR process... More disconcerting, however, the Minister's evidence was unapologetic and self-congratulatory with respect to both the underlying framework and the results of the ADR process. It disclosed her apparent disconnectedness from the experience of the survivor witnesses, for whom she has a particular duty of care and to whom she is not listening.³⁸⁵

Moreover, the report also concluded that the ADR program "is strikingly disconnected from the so-called pilot projects that preceded it," (that) "it is using a model of dispute resolution that...revictimizes former students,"... that the application process "imposes an egregious burden of proof on the applicants," that the consultation process was

³⁸⁴ Canada, House of Commons. Standing Committee on Aboriginal Affairs and Northern Development, "Study on the Effectiveness of the Government ADR Process for the Resolution of IRS Claims," Evidence. (March 24, 2005) <http://www.parl.gc.ca/infocomdoc/38/1/AANO/Meetings/Evidence/AANOEV2S-E.HTM#Int-1192046> (accessed January 11, 2006).

³⁸⁵ Canada, House of Commons. Standing Committee on Aboriginal Affairs and Northern Development, "Fourth Report. Study on the Effectiveness of the Government ADR Process for the Resolution of IRS Claims."

inadequate, the program too exclusionary, too slow, and compensation inadequate – “an arbitrary administrative solution that is subject to political whim.” Equally important, the Committee said that “former students do not trust the process.”³⁸⁶ The AANO report was concurred in the House on April 12th, 2005. That such a strong condemnation of the ADR program was now a matter of public record put the government under increasing political pressure to respond substantively to the criticisms leveled against it.

In May, 2005, as the governing Liberals clung to power with the threat of a non-confidence vote looming, the AFN, Inuit and Metis organizations prepared for a policy retreat with Cabinet that came out of Martin’s CAPR commitments to develop a new transformative relationship with First Nations. The agenda involved discussion on housing, health care and education. Expectations were running high that a major announcement would also be made regarding changes to the governments’ handling of Indian residential school claims. In addition to the damning AANO report, on May 12th, the Supreme Court rendered its decision on Canada’s appeal of the Cloud class action, rejecting it to clear the way for the class action to proceed. The decision had significant implications for the government in terms of increased legal risk with regard to IRS claims.³⁸⁷ Thus there was every indication that the Cabinet retreat would mark a major turning point on the IRS issue. On May 14th, the *National Post* reported that NDP MP Pat Martin “anticipates a potential \$1-billion-plus announcement from the Liberals within days that would offer one-time lump sum compensation payments to all 87,500 former students of Indian residential schools.”³⁸⁸ On May 27th, the *Vancouver Sun* reported that a

³⁸⁶ Ibid.

³⁸⁷ National Consortium of Residential School Survivors’ Counsel, “Supreme Court Decision Is a Victory for Elderly Residential School Survivors” *Attorney General of Canada et al. v Marlene Cloud, et al.* http://209.47.227.135/information/sec_case/docket_E.asp?caseno=30759 (accessed January 11, 2006). “Assembly of First Nations National Chief Supports Supreme Court Decision on Cloud Class Action,” news release May 13, 2005 <http://www.afn.ca/article.asp?id=1100> (accessed January 9, 2006).

³⁸⁸ Cristin Schmitz, “\$1B Payout Expected in Native Cases,” *National Post*, sec.A4, May 14, 2005.

political accord would be signed at the upcoming Cabinet retreat, by which "Ottawa will attempt to defuse anger over its approach to compensating survivors of physical and sexual abuse at residential schools via a commitment to work with the AFN on a proposal for lump sum payments to all former students...a truth-telling commission...(and) a formal apology for the sorry chapter in Canadian history."³⁸⁹

On May 30th 2005, as media gathered to record the ritual, the Government of Canada and the Assembly of First Nations announced that they had reached a political agreement with regard to the residential school issue. The event was solemnized symbolically in two ways: the smoking of a peace pipe, and the signing of a Political Agreement in which both parties "are committed to reconciling the residential schools tragedy in a manner that respects the principles of human dignity and promotes transformative change." Furthermore, the parties "recognize(d) that the current ADR process does not fully achieve reconciliation between Canada and the former students of residential schools."³⁹⁰ But immediate action on compensation that had been anticipated by some was not forthcoming. Instead, Canada announced that it was appointing the Hon. Frank Iacobucci, former Justice of the Supreme Court of Canada, as the federal representative tasked with negotiating with all parties and making recommendations to Cabinet by March 31, 2006 on "a settlement package that will address a redress payment for all former students...a truth and reconciliation process, community based healing, commemoration, an appropriate ADR process that will address serious abuse, as well as legal fees." The government also "recognizes that there is a need for an apology that will provide a broader recognition of the Indian Residential Schools legacy and its effect upon

³⁸⁹ Paul Samyn, "Ottawa Ready to Sign New Accord with First Nations," *The Vancouver Sun*, sec. A8, May 27, 2005.

³⁹⁰ Canada. Indian Residential Schools Resolution Canada, "Political Agreement" (May 30, 2005) http://www.irsr-rqpi.gc.ca/english/news_30_05_05b.html (accessed January 11, 2006).

First Nations communities.³⁹¹ Given the legal and political complexities involved, Mr. Iacobucci's appointment was perhaps, predictable, as is the fact that the announcement met with mixed response. Not surprisingly, both the AFN and the National Consortium of Residential School Survivors' Counsel welcomed the appointment.³⁹² However, two grassroots survivors' groups, the Indian Residential School Survivors Society and the National Residential School Survivor Society, issued a joint press release saying that they were "very disappointed that Survivors will have to wait even longer to start receiving compensation...(and that) (t)he much-hyped and eagerly anticipated announcement...failed to formally recognize the suffering of Survivors across Canada by not delivering a comprehensive compensation package." In large part, they were concerned that survivors whose expectations had been raised would suffer negative impacts as a result of more delay.³⁹³

The political accord also received mixed reviews in the national media. On May 31st, 2005, the front page of the conservative *National Post* declared "Billions for Natives." The lead story plays to a Settler audience that is unsympathetic to the concept of providing group reparations for attendance at an IRS, believing that only sexual and physical abuse warrant compensation.

the accord...marks a significant departure from Ottawa's long-held stance that it would not pay compensation to any of the 86,000 former residential school

³⁹¹ Ibid.

³⁹² Assembly of First Nations, "Assembly of First Nations National Chief Signs Historic Political Accord to Resolve Legacy of Indian Residential Schools" news release, May 30, 2005 <http://www.afn.ca/article.asp?id=1185> (accessed January 9, 2006) National Consortium of Residential School Survivors' Counsel, "National Consortium Negotiations with the Honourable Mr. Justice Iacobucci Will Be Focused on Reaching a Viable Settlement of All Residential School Claims," news release, July 18, 2005. http://www.thomsonrogers.com/consortiumPublicBriefingNote_July_18_2005.pdf (accessed January 3, 2006)

³⁹³ Indian Residential School Survivors Society and National Residential School Survivors Society, "Advocates Disappointed with Delay in Resolving Residential School Claims - Move to Expedite Federal Mediator's Mandate," news release, June 2, 2005. http://www.irsss.ca/PDF/2005-06-02_ResponseStrategy_Eng.pdf (accessed January 11, 2006).

students who were unable to demonstrate they suffered concrete physical or sexual abuse...After a ceremony at the national press theatre that began with an aboriginal elder passing around a "reconciliation pipe" to Mr. Fontaine, Ms. McLellan, Justice Minister Irwin Cotler and Indian Affairs Minister Andy Scott, Mr. Fontaine extolled it as a historic and "healing" moment that commits the government politically to begin negotiating many of the key demands contained in a recent report by the AFN...The key players in the legal talks will be the AFN, the lawyers for the former students, including the legal consortium that is conducting a national multi-billion-dollar class action...as well as lawyers for the defendant churches that ran most of the schools...³⁹⁴

Don Martin, an editorialist in the same paper viewed the accord as simply one more example of how effectively First Nations leaders have learned to "extort" money from the federal government, with the threat of political embarrassment. According to this account, Fontaine threatened to withdraw from the upcoming high profile Cabinet policy retreat unless significant progress was made on the residential school issue. As a result,

...a full retreat on settlement policy and a compensation resolution with a potentially massive price tag were rolled out yesterday to the triumphant smoking of a peace pipe for the cameras. Retired Supreme Court Justice Frank Iacobucci was appointed to drag out, oops, continue negotiations for a final compensation package scheme with a multitude of class-action lawyers. Gosh. More legal wrangling for another 10 months. Just what a process already overwhelmed with too many lawyers needs while clients die off at a rate of five victims per day."³⁹⁵

In the *Globe and Mail*, national columnist Jeffrey Simpson is even more blatant in his condemnation. He claims that by appointing Justice Iacobucci:

the federal government essentially threw up its hands and opened its pocketbook...abandon(ing) important principles...on which it had based previous positions – notably that not every Indian who ever attended a residential school deserved payment...The Chretien government had created a \$250-million healing fund for communities...The government also issued a statement of reconciliation and acknowledged responsibility. This wasn't apparently enough. The government has now committed the country to some sort of "apology." In addition, there will be

³⁹⁴ Cristin Schmitz, "Billions for Natives: Talks to Compensate Residential School Students Start at \$4-Billion," *National Post*, May 31, 2005.

³⁹⁵ Don Martin, "A How-to on Getting Liberal Money," *National Post*, May 31, 2005.

some kind of “truth and reconciliation” process. Ottawa had previously resisted both ideas...The alternative dispute resolution process recognized that not all residential school students were treated the same...(but now) these judgments must not be examined in the light of what was thought appropriate at the time. They must be calculated and analyzed by today’s standards – the classic “presentism” in historical analysis, whereby yesterday’s events are viewed exclusively through today’s prism. That kind of analysis, deeply contested by many professional historians, has also been resisted by Ottawa and some courts. Not any more.³⁹⁶

These particular media reports provide some insight into Settler minds that are unsympathetic to any broader vision of justice and reconciliation, minds that the ruling government must also attempt to appease. They chastise the government for “backtracking” on a previous policy that rejected group reparation payments based on the dubious rationale that perhaps not all students had a “bad” experience at school. They reject any notion that survivors should be compensated according to contemporary standards of acceptable human behaviour towards children, decrying the presentist agenda of manipulative First Nations and their supporters who are willing to go to any lengths to “milk the system” for more money. There is no sense of public responsibility to compensate for bad government policy in its own right, an ethical stance that makes irrelevant whether or not an individual had a good or bad experience at school. Just as revealing as the substance of the articles, is the way in which they refer to Indigenous diplomatic traditions by bracketing them, both literally as in “reconciliation pipe” and figuratively, by describing the smoking of the peace pipe in front of cameras as “triumphant.” Both in substance and in tone, the authors reveal a cultural arrogance and fundamental lack of respect or political recognition for Indigenous diplomacy, law and peacemaking protocols that is not atypical amongst the Settler majority population. This ethnocentrism, which is highly reminiscent of the attitudes of colonial benevolent

³⁹⁶ Jeffrey Simpson, "Pay, Pay, Pay: Will the Residential Schools Mess Go Away?" *Globe and Mail*, June 3, 2005.

peacemakers like Morris and Scott, is both subtle and pervasive in a variety of public forums when Indigenous peoples use their own diplomatic and legal traditions to validate political or legal agreements.

Other media reports on the political accord emphasizes that while there is support for this "major policy shift" there are concerns about the additional delays in providing a compensation package to IRS survivors. NDP MP Pat Martin said that "he...is optimistic that lump sum compensation is on its way, but...the announcement fell short of clearly resolving the issue and that about 2,000 former students will die waiting for Mr. Iacobucci's report."³⁹⁷ But it is Conservative MP Jim Prentice that identifies the crux of the matter, noting that the accord did nothing but commit Canada to negotiations until March 31, 2006.

This announcement is, indeed, only political and will not lead to the payment of any settlement funds to any former students in the time before March 31, 2006...Specifically, the "political agreement" does not: pay any settlement money to any former student; commit the Government to an apology; strike a national Truth and Reconciliation commission; make any changes to the existing Alternative Dispute Resolution Process; allocate any budgetary envelope to cover the possible settlement package; commit the Government to move beyond the known causes of action identified in Canadian Law...It is...important to note that Mr. Justice Iacobucci has been appointed as the Government's negotiator. His role is not to serve as a mediator or adjudicator and his only obligation is to report back to Cabinet...Moreover, nothing which Mr. Iacobucci does is binding upon the Government of Canada.³⁹⁸

Meanwhile, what has been the broader response of IRS survivors to these latest

³⁹⁷ Bill Curry, "Ottawa Shift Buoy Natives", News Release, nd. http://www.patmartin.ca/ndp.php/patinthenews/Ottawa_shift_buoys_natives.htm. (accessed January 11, 2005) For additional media reports see, Andrew Mills, "Ex-Judge Joins Native School Discussions," *Toronto Star*, May 31, 2005; Jason van Rassel, "Local Natives Recall Pain of Residential Schooling: Compensation Agreement "Huge" Decision," *Calgary Herald*, June 1, 2005; Richard Foot, "Former Residential School Students Won't Settle Their Claims Cheaply," *The Vancouver Sun*, May 31, 2005.

³⁹⁸ Jim Prentice, "Prentice: Liberals Fail Aboriginals Again - Residential School Plan Devised to Buy Time," news release, May 31, 2005 <http://www.jimprentice.ca/Documents/May31PR.htm> (accessed January 11, 2006)

developments? In July, 2005, I attended an AFN national conference on residential schools, "A fair and just resolution of the Residential Schools Legacy," held in Vancouver, British Columbia. The purpose of the conference was twofold: to provide information to survivors about the implications of the Political Agreement and to obtain input and feedback from conference participants on the proposed apology, truth and reconciliation process, and commemoration in addition to issues related to the prioritizing of compensation payments to elderly, sick and deceased IRS survivors. In much the same manner as the Calgary conference, the Vancouver event brought together a wide range of experts who provided the 1000+ conference delegates with a comprehensive historical overview on the findings of the *Report of Royal Commission on Aboriginal Peoples*; the work of the Aboriginal Healing Foundation; and the principles of engagement outlined in the Exploratory Dialogues. Delegates heard from the Deputy Minister of IRSRC on out-of-court settlement approaches, programs and services that Canada has implemented. A senior plaintiffs' counsel spoke about litigation in a tort model, and the AFN provided an overview of the report it tabled at the AANO hearings. The Political Agreement was explained and compensation components for the lump sum payment and abuse cases, was reviewed. With regard to truth-telling and reconciliation, information on a roundtable that has been meeting for the past two years was presented. The multiparty roundtable is exploring what a community-based truth-telling initiative might involve. Another speaker talked about reconciliation lessons learned from other countries. Breakout sessions gave conference participants the opportunity to express their opinions and provide suggestions on all of the issues under discussion. The information gathered was summarized and presented to the delegates in a plenary session on the final day.³⁹⁹

³⁹⁹ Assembly of First Nations, "a Fair and Just Resolution of the Residential Schools Legacy, Final Conference Report." (2005) http://www.afn.ca/residentialschools/PDFarticles/IRS_Conference_Report.pdf (accessed January 11, 2006).

Overall, conference participants indicated that while they were cautiously optimistic that a comprehensive settlement package would be forthcoming, they were understandably waiting for the “proof in the pudding,” that will only come when they actually receive compensation. Clearly the events that have unfolded since the Calgary conference have raised the expectations of IRS survivors, their families and communities. Whether Canadians will rise to the occasion as Robert Joseph urged in his testimony to the AANO Committee, to address the IRS legacy with leadership, vision, humanity and justice, remains to be seen. During the Iacobucci negotiations, the AFN took no chance that it would be sidelined. On August 3, 2005, the organization filed a class action against the federal government, thus ensuring that it would have a full seat, not just consultative status, at the negotiating table.⁴⁰⁰

The Agreement-in-Principle – A Settlement Package is Announced

On November 23, 2005, an agreement-in-principle (AIP) on a compensation package for residential school survivors was announced. The package is to include financial compensation for all former students and the establishment of a truth and reconciliation commission, components of redress that Canada had previously rejected unilaterally. Under the terms of the AIP, \$60 Million will be provided for a truth and reconciliation process that “...is intended to promote public education and awareness about the Indian residential school system and its impacts on the human dignity of former students, as well as provide former students and their family members with an opportunity to share their Indian residential school experiences in a safe and culturally-appropriate environment.”⁴⁰¹ Thus a truth and reconciliation commission may be one

⁴⁰⁰ Assembly of First Nations, “AFN National Chief Files Class Action Claim against the Government of Canada for Residential Schools Policy” news release, August 3, 2005 <http://www.afn.ca/article.asp?id=1632> (accessed January 9, 2006).

⁴⁰¹ Canada, Indian Residential Schools Resolution Canada. “Agreement in Principle,” (November, 2005)

small window of opportunity for Settlers and Indigenous peoples to use our moral imaginations to begin the long process of transcending cycles of violence – restorying our shared history in decolonizing, transformative ways. In doing so, I argue that we must make space for Indigenous history, law and peacemaking traditions as integral to the framework, design and substance of a process designed to address the colonial legacy of Indian residential schools in Canada. But regardless of the final disposition of the AIP, theoretical perspectives provide new insight into the deeper implications of the political controversy over the ADR program. We see how attempts to address the IRS legacy are embedded in structural, systemic and symbolic violence that exists within a paradox of reconciliation – the tensions that exist between law and justice. We also begin to understand how myth, ritual and symbol play an important but often ignored role in the political negotiation of our shared history.

Theoretical Approaches to Intractable Conflict, Violence, and Justice

Although scholars who analyze intractable or deep-rooted conflict and violence within the context of Indigenous-Settler relations do so from different perspectives, they all look for new ways to break free from the cycles of structural, systemic and symbolic violence. Alfred reminds us that in the past when Indigenous peoples practiced diplomacy “from a position of strength and rooted in philosophies of peace, they negotiated...(r)real treaties (that) ensured peaceful coexistence and created new relationships that removed our peoples from cycles of violence.”⁴⁰² He contrasts this treaty-making to the “surrenders and subjugations” of contemporary treaty negotiations, self-government agreements and claims settlements that are a direct consequence of the unequal power relations that now

http://www.irsr-rqpi.gc.ca/english/pdf/AIP_English.pdf (accessed January 10, 2006).

⁴⁰² Alfred, *Wasase: indigenous pathways of action and freedom*, 77.

exist, ultimately working to maintain the colonial status quo.⁴⁰³ Alfred argues that Indigenous peoples as warriors, should engage Settlers in creative confrontation “using words, symbols and direct non-violent action as the offensive weapons of our fight...to defeat colonialism by convincing people of the need to abandon the cycle of subjugation and conflict and join us in a relationship of respect and sharing.”⁴⁰⁴ For Lederach, the “dilemma of transcendence” from “geographies of violence” towards cultures of peace lies in our ability to develop personal and structural processes of social change that are rooted in authenticity, the use of moral imagination and the restorying of history. He suggests that “(t)he real challenge of authenticity and the moral imagination is how to transcend what has been and is now, while still living in it. For the moral imagination to make the journey across this terrain it will need to address complexity and support change over time.”⁴⁰⁵ Writing from very different perspectives, both Alfred and Lederach seek holistic transformative pathways to peace that require us to dig deeply into the cultural, psychological, sociopolitical and institutional barriers that perpetuate cycles of violence. The very things they propose to do are antithetical to the institutional structures that exist, which is what makes them so challenging. We know, for example, that the litigation process is not geared towards addressing complexity, but is designed to produce winners and losers. Moreover, government programs generally do not support long term change. Rather they are concerned with producing short term “outcomes” or results that are tied to political agendas, fiscal cycles and government reporting requirements. Neu and Therrien demonstrate how these bureaucratic strategies - the “soft technologies such as strategic planning, law and accounting” - provide economic and legal rationalizations for policies and programs that are simply new forms of violence, less overt than physical force, but

⁴⁰³ Ibid.

⁴⁰⁴ Ibid.

⁴⁰⁵ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 58-59.

just as deadly to Indigenous peoples.⁴⁰⁶

Redekop delves into the mimetic structures of violence that exist in deep-rooted conflicts linked to ethnonationalism. He identifies basic human needs for meaning, connectedness, security, recognition, action and being/self that must be met in order to sustain healthy human and social development. Redekop explains that “(n)needs...are inextricably bound to identity and identity formation; a threat to satisfying needs leads to frustration and, potentially, to violence...Deep-rooted conflict occurs when values linked to the specific identity needs of a group are violated.”⁴⁰⁷ Placed within a historical context, the conflict narrative is played out repeatedly between perpetrator and victim in mimetic storylines of violence that develop their own mythos. Violent interaction, whether subtle or overt, is the norm as perpetrators and victims follow a familiar plot in which “past structures of violence are imitated and expressed in violent ideas, emotions and behaviours.”⁴⁰⁸ Redekop uses the Oka crisis as a case study in which mimetic violence is highly visible in the interactions that occurred. But Settlers who work as policymakers, negotiators, or program managers may have difficulty seeing how these relational systems of violence exist in their own everyday work. These recent scholarly works offer new insights into how violence is entrenched in the hegemonic structures and operational systems of law and bureaucracy, cloaked in a language of justice and reconciliation. In doing so, they reveal a discourse of violence.

In his study of the British Columbia treaty process, Woolford argues that the conflicting visions of certainty and justice that characterize treaty-making discourse reveal a deeper tension between legal-utilitarian and moral visions of justice. The former is

⁴⁰⁶ Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*, 5.

⁴⁰⁷ Redkop, *From Violence to Blessing: How an Understanding of Deep-Rooted Conflict Can Open Paths to Reconciliation*, 24, 31-59.

⁴⁰⁸ *Ibid.*, 161-162.

rooted in a distributive justice model of neoliberalism in which affirmative repair of injustices consists of minor reforms and accommodation within existing dominant culture structures. These assimilationist strategies are “forward-looking,” “rational” and “pragmatic,” focusing on achieving legal and economic certainty for corporations and investors while also purporting to improve the socioeconomic well being of First Nations. The latter is rooted in a restorative justice model wherein First Nations attempt to bring history to the table, demanding recognition of, and compensation for, historical injustices as moral wrongs that have been perpetrated against Indigenous peoples. The government response to the thorny issue of compensation for past wrongs is not framed in moral, but legal terms. Woolford argues that “...by operating on the basis of liability and risk avoidance, it is, in fact, non-Aboriginal governments who bring legal concerns into the political realm of treaty making.”⁴⁰⁹ In describing the symbolic violence that is enacted by government negotiators who refuse to discuss history in negotiations at treaty tables, Woolford raises an important point with regard to unsettling the Settler within.

non-Aboriginal participants in the treaty process often experience what might be referred to...as a “bifurcation of consciousness”...In other words, negotiators should not be portrayed as automatons pushing forward the party line. Many non-Aboriginal government actors possess deep moral visions of justice. They cite their reasons for wanting to participate in the treaty process as being related to wanting to help right a past wrong. Moreover, they are not entirely unresponsive, on a personal level, to the narratives of injustice related by First Nations peoples at the treaty tables. But they are able to separate these personal and embodied feelings from their public role as negotiator, treaty analyst, consultant, and so on. They are able to “wear many hats”...and to interpret the purpose of treaty negotiations from a space outside the body – a space that passes beyond the body and that corresponds to the rational interests of non-Aboriginal governments.⁴¹⁰

Here I note that this ability to be “neutral,” to “separate the people from the problem” is a

⁴⁰⁹ Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*, 127.

⁴¹⁰ *Ibid.*, 130.

core principle in ADR interest-based negotiation training that many negotiators, lawyers, policymakers and program managers undergo as part of their professional development. It is this disembodied Settler stance, with its denial of Indigenous history and presence that reinforces unequal power relations and prevents us from engaging our moral imagination in ways that are deeply transformative. This bifurcation of consciousness encourages us to “manage” processes, invoking our “superior rationality” and the legal-utilitarian concerns of Settler governments in the face of Indigenous stories of injustice, loss and pain. As we saw earlier, this Western cultural tendency to separate rational thought from our emotional, somatic and spiritual responses further manifests itself in requiring oppressed peoples to “leave their pain at the door” when engaging in dialogue or negotiation processes.⁴¹¹ LeBaron observes that dominant culture ADR processes reflect this mind/body split by privileging fact-finding, cost savings and efficiency over emotional expression and the importance of attending to relational issues, which from a Western perspective may seem “superfluous.” Within the context of Indigenous-Settler conflict, she says, “...it is not surprising that dominant culture legal processes and systems have been experienced by First Nations people as exclusionary, disempowering, and unfair. Bringing different cultural assumptions, values, and behaviours, they have not accepted procedures and structures that reflected dominant cultural “common sense.”⁴¹²

Increasingly, ADR neutrality-based models that fail to take culture, power and political relations into account are criticized by those who argue that such models reinforce the status quo and fail to address the political, social and economic realities of oppressed, marginalized peoples. Philosopher David Kahane challenges the myth of

⁴¹¹ See Forester, *The Deliberative Practitioner: Encouraging Participatory Planning Processes*, Chapter 7.

⁴¹² Michelle LeBaron, "Learning New Dances: Finding Effective Ways to Address Intercultural Disputes," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 15.

liberal neutrality that forms the basis of Settler ideas about what constitutes the just resolution of conflict in Indigenous-Settler relations. He suggests that ADR processes that claim to be neutral, fair and rational are in fact, culturally bound, highly political processes that reinforce dominant culture values and replicate colonial power relations.

(The) common sense story of just adjudication has deep roots in Western cultural, legal and philosophical traditions and is closely tied to accounts of political legitimacy...In its common sense version, this story of neutrality and justice has tremendous currency in North America: it is seen as describing not only the aspirations of our legal and political systems but even their typical operation. Seen from the standpoint of Aboriginal struggles for survival, equality and self-determination, however, this dominant Western account of justice looks deeply corrupt.⁴¹³

Together these strategies of contemporary colonialism also work to minimize or ignore the central role that myth, ritual and history play in political conflicts between Indigenous peoples and Settlers. Thus the bifurcation of consciousness that Woolford describes, the Western privileging of material/legal aspects of conflict that focuses on rational, utilitarian "neutral" dispute resolution, devalues the importance of relational, cultural and symbolic aspects of conflict.

In the same way that Settlers tend to discount culture and relationship as peripheral to the primary concerns of legal liability and economic efficiency, we do not take into account the importance of myth, ritual and history in addressing intercultural conflicts. Yet as scholars who work with transformative theory and critical pedagogy suggest, we ignore them at our peril because they are deeply influential, emotionally powerful forces that can either reinforce traditional institutions or work to support transformative change.⁴¹⁴ Both Kertzer and Schirch point out that although dominant

⁴¹³ David Kahane, "What Is Culture? Generalizing About Aboriginal and Newcomer Perspectives," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 29-30.

⁴¹⁴ See Chapter Two of this dissertation. See also Kertzer, *Ritual, Politics & Power*, 40.

culture myth and ritual are often invisible to us or viewed as “window-dressing” to the more important substantive issues being addressed, they actually serve to reinforce political legitimacy. Kertzer notes that in the seemingly ordinary formal meetings we hold to “consult” with others about political or bureaucratic decisions, “strong symbolic forces are at work at such meetings to limit severely the kinds of criticisms and alternative ideas that can be expressed.”⁴¹⁵ Applied to the context of this study, for example, it becomes clearer how consultation on the ADR process might serve as a “safety valve” or cathartic mechanism which releases temporarily the anger and hostility of violence inherent in the residential schools legacy, without ultimately changing unequal power relations.⁴¹⁶ But the symbolic meaning we attach to events also constitutes a “struggle over the dominant symbolic paradigm, the struggle for hegemony,”⁴¹⁷ that occurs in the political negotiations over whose story, whose history, whose myths and rituals, will prevail. In this way, Schirch observes, ritual can also create transformative space in which we can break out of existing patterns of cyclical violence to create deeper social change.⁴¹⁸ Myth, ritual and history as symbolic forces, are present in the controversy over the ADR program that played out in the House of Commons, at the hearings held by the House of Commons Standing Committee on Aboriginal Affairs and Northern Development (AANO) and in the media coverage of these events. These interrelated themes play out in a complex, politically charged environment that pits managing legal risk and implementing policy through bureaucratic practices, against the relational importance of restitution, truth-telling and apology that begins with recognizing, rather than denying, Indigenous history and experience.

⁴¹⁵ Ibid., 42.

⁴¹⁶ Ibid., 55; Schirch, *Ritual and Symbol in Peacebuilding*, 143-146.

⁴¹⁷ Kertzer, *Ritual, Politics & Power*, 175.

⁴¹⁸ Schirch, *Ritual and Symbol in Peacebuilding*, 146-148.

Lessons learned from the ADR program controversy

The conflict over the ADR program has ranged from the community and public forum level, to policy consultation meetings between government officials, lawyers and IRS survivor advisory groups, to the high-level political negotiations that played out on Parliament Hill. The government vision of reconciliation is designed to achieve legal certainty by settling litigation claims in an ADR program that is based on tort law and administered in a neutral adjudication process and providing what is intended to be a seamless programmatic response to healing and reconciliation. In calling for a broader, more holistic restorative approach, IRS survivors, First Nations leaders, and Settler politicians and groups who have allied themselves with Indigenous peoples on this issue, set forth an Indigenous vision of reconciliation that demands moral justice. This vision of reconciliation is articulated in the call for group reparation payments and an apology from the prime minister - highly symbolic gestures that are deeply important to many IRS survivors. They want a public reckoning with the past through the rituals of shared truth-telling, apology, restitution and remembrance. Although the ADR program may meet the criteria for settling claims from a narrow legal perspective, it does not meet the demand for moral justice that would shift it from being yet another example of Woolford's affirmative repair into a truly decolonizing, transformative response to the IRS legacy in Canada. Moreover, the ADR program meant to deal with claims that are a direct result of colonial policy that tried to eradicate Indigenous cultures is based solely on a Western legal approach to resolving conflict.

The problem then is not only the corrective justice tort-based aspects of the ADR program, but the underlying cultural assumptions about neutrality and truth that influence North American ADR models more generally. Here it is instructive to turn again to the South African Truth and Reconciliation Commission which identified and worked with four concepts of truth with regard to reconciliation:

- factual or forensic truth based on legal evidence or documentary information gathered “through reliable (impartial, objective) procedures;”
- personal and narrative truths of victims and perpetrators shared in a process of storytelling based on valuing strong South African oral tradition;
- social or dialogue truth – that is, “the truth of experience that is established through interaction, discussion and debate;”
- healing and restorative truth, “the kind of truth that places facts and what they mean within the context of human relationships – both amongst citizens and between the state and its citizens.”⁴¹⁹

Keeping these four concepts in mind, we can see that the ADR program is limited in its capacity to address the concerns expressed by Robert Joseph and other witnesses at the Committee hearings. Even if claims are “settled” or “resolved,” if we fail to restore the humanity to our relationship and ensure that Indigenous peoples feel that justice has been done according to *their* criteria for reconciliation, how are we any closer to the healing and reconciliation we say we are seeking? Meaningful reconciliation will require us to move beyond an over-reliance on factual or forensic truth – the privileging of neutrality and rationality – towards a vision of reconciliation that also incorporates narrative, social and restorative truth – the privileging of experiential engagement that characterizes Indigenous pedagogy, diplomacy and legal traditions.

In this chapter, I have argued that the political controversy over the ADR program is symptomatic of deeply ingrained patterns and cycles of colonial violence that characterize Indigenous-Settler relations more generally. The Settler vision of reconciliation viewed through this lens is deeply flawed, representing yet another

⁴¹⁹ Summarized from the Final Report of the Truth and Reconciliation Commission, in Fisher et al., *Working with Conflict: Skills and Strategies for Action*, 133. The literature on reconciliation is extensive, but key works include, Mohammed Abu-Nimer, ed., *Reconciliation, Justice, and Coexistence: Theory and Practice* (Lanham: Lexington Books, 2001); Priscilla B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2001); Andrew Rigby, *Justice and Reconciliation: After the Violence* (Boulder: Lynne Rienner Publishers, 2001).

incarnation of the benevolent peacemaker myth as we remain ever focused on bringing neutral justice to Indians in order to save them. Like the peacemakers of the past, we do not really listen to Indigenous visions of law, peace and justice as we consult with Indigenous peoples. Rather we create legalistic, bureaucratic solutions to settling IRS claims that simply replicate colonial power relations in a new form of elegant violence that is cloaked in a language of healing and reconciliation. Our ability to compartmentalize, what Woolford describes as a bifurcation of consciousness, is evident in the process we have created. On one hand, we have a tort-based ADR program, and ongoing litigation, and on the other, we speak of our commitment to healing and reconciliation as we design programs that we hope will address these relational aspects of the IRS legacy. In essence, we have created a strange, hybrid model of reconciliation that reflects the Settler capacity for separating the rational “interests” of managing legal risk from the emotional/somatic, experiential engagement required to recognize Indigenous humanity and presence that is key to repairing our relationship.

I have also identified the important role that myth, ritual and history play in the IRS context. Chief Joseph understood the symbolic power of ritual as he appeared before the AANO Committee in his ceremonial robe. Both government and First Nations politicians invoked ritual and history in the public ceremony that gave political legitimacy to the Political Agreement – the smoking of the peace pipe, the signing of the document. Moreover, the AANO Committee minutes reveal the power of story – the testimony of IRS survivors - to move us even in the midst of political machinations and legal concerns, breaking the silence of Settler denial in ways that are deeply unsettling. Thus the Committee members responded to the history that is alive to the people like Ms. Merrick sitting before them, in a way that engaged them as human beings faced with moral injustice they can no longer deny. In the next chapter I look more closely at this unsettling

of Settlers as having transformative potential, delving more deeply into perpetrator denial within a paradigm of trauma. I then consider the power of Indigenous testimony to shift perpetrators from a culture of denial to an ethics of recognition based on authenticity and truth-telling.

Chapter Five

History is Alive:

Perpetrator Denial, Indigenous Testimonies, Trauma and Truth-telling

If a community has to recognize that its members, instead of being heroes, have been perpetrators who violated the cultural premises of their own identity, the reference to the past is indeed traumatic. The community can cope with the fundamental contradiction between identity claims and recognition only by a collective schizophrenia, by denial, by decoupling or withdrawal.⁴²⁰

Restitution is purification. It is a ritual of disclosure and confession in which there is acknowledgment and acceptance of one's harmful actions and a genuine demonstration of sorrow and regret, constituted in reality by putting forward a promise to never again do harm and by redirecting one's actions to benefit the one who has been wronged.⁴²¹

In the last chapter, the ADR controversy demonstrates the extent to which Settlers still subscribe to the benevolent peacemaker myth as we cast ourselves as heroes on a mythical quest to save Indians. To avoid facing the hard reality and full consequences of our colonial history – the moral dilemma that confronts us in the face of Indigenous presence, we deny, minimize and rationalize our actions. Within the current discourse of reconciliation, we continue to problematize and pathologize Indigenous peoples, seeking bureaucratic solutions to the long list of “Indian problems” such as cultural loss and trauma, poverty, low education levels, and poor health. In doing so, we deflect attention from the Settler problem associated with our own role as perpetrators of colonial violence and deniers of Indigenous history and nationhood. To do otherwise would engender our own “identity crisis” and expose us to the trauma of admitting to ourselves and to Indigenous peoples what it is to be a perpetrator. Within this context, the AANO

⁴²⁰ Bernhard Giesen, "The Trauma of Perpetrators: The Holocaust as the Traumatic Reference of German National Identity," in *Cultural Trauma and Collective Identity*, ed. Jeffery C. Alexander, et al. (Berkeley, CA: University of California Press, 2004), 114.

⁴²¹ Alfred, *Wasase: indigenous pathways of action and freedom*, 153.

Committee members' responses to the testimonies of residential school survivors represents a pedagogical moment – an experiential opportunity to use our moral imagination in unsettling ways to begin breaking the cycles of violence.

In this chapter, I explore the transformative possibilities of healing the collective schizophrenic mind of Settler society using what Dominick LaCapra describes as “empathetic unsettlement,” and Boler and Zembylas call “a pedagogy of discomfort.”⁴²² I employ a pedagogical strategy for unsettling the Settler within which privileges not neutrality but engagement. The reconfiguration of our national cultural identity as peacemakers is part of the decolonizing struggle we must engage in to confront our denial, fear, guilt, and racism - the hallmarks of shamed colonizers who have still only told *part* of the uncomfortable truth to ourselves. To better understand perpetrators, I first delve more deeply into the paradoxes of denial/acknowledgment, guilt/innocence, and moral indifference/accountability that exist in the bifurcated consciousness of Settlers. I then turn to critical historians who advocate for a public history that engages people by making strong connections between historical and present day injustices. Transforming from a culture of denial to an ethics of recognition requires authenticity and truth-telling. The historical knowledge we acquire in public history representations does not necessarily inculcate either. Rather we must develop an historical consciousness that informs our moral imagination, enabling us to restory the history that is alive in new ways that respect the dignity and freedom of Indigenous peoples. Therefore, I envision public acts of restitution, apology, truth-telling and remembrance - the experience of receiving and honouring testimony - as a critical pedagogical practice wherein Settlers, by learning to listen, engage in an ethics of recognition that is unsettling and transformative. Next, I consider apology more closely, drawing on the works of scholars who set out a criteria for

⁴²² Dominick LaCapra, *History in Transit: Experience, Identity, Critical Theory* (Ithaca: Cornell University Press, 2004), 135; Boler and Zembylas, "Discomforting Truths: The Emotional Terrain of Understanding Difference," 111.

what constitutes a genuine, authentic political apology, critiquing the Statement of Reconciliation that was offered by the Minister of Indian Affairs in 1998. I argue that Settler apologies must occur both at the highest political level and at the community level where elements of political and personal apology combine to mend the bifurcated consciousness of Settlers.

I then shift the focus to consider how Alfred's conceptualization of restitution as an act of purification, compels Settlers to expand our thinking about restitution and apology. Although Western and Indigenous scholars share some common theoretical perspectives, the Western literature does not take into account Indigenous ways of making restitution and apology that occur through the stories, ceremonies and symbolic rituals enacted in Indigenous sacred spaces. Linking the cultural loss associated with residential schools to Indigenous political reclaiming of culture, I argue that making restitution and apology according to Indigenous criteria may act as a fulcrum point, rebalancing and decolonizing our relationship. I reject the current discourse of reconciliation to reframe it as an intercultural space of public encounter that is potentially transformative. Reconciliation is an experiential, subjective, emotionally engaged performative space wherein Settler acts of honouring Indigenous testimony, shared truth-telling, and making restitution and apology in acts of remembrance might transform us from colonial shapeshifting perpetrators into authentic peacemakers.

Reconciliation, the Paradigm of Trauma and Perpetrator Denial of History

This paradigm (of trauma) is now embedded in both international justice tribunals and in campaigns for justice Indigenous peoples undertake whose real wounds are denied by history. Natives will return to haunt the states that attempted their genocide...the residential school discourse is a site of contestation where Canada's historical narratives about "Indians" have been articulated into the present...it is not by chance that this argumentation about sexuality, abuse, and domestic violence emerges now...it is an ethical contestation...and...the

argument is intergenerational. The intimacy of the “domestic” location that is Canadian colonization in Indian lives renders any conversation about “it” subjective and emotionally engaged... This ethical contestation resonated within Native communities informing them emotionally and physically, discursively and politically; where the “what” that happened and its emotional resonance cannot now be cloistered within a past that stays neatly segregated.⁴²³

Within a discourse of reconciliation and the paradigm of trauma that dominates the residential school story, Settlers have responded to survivors’ testimonies in problematic ways that ignore the broader imperative of decolonization. Rather than searching for ways to dismantle the live history of colonialism, we focus instead on the need for individuals to heal the psychological wounds inflicted by their residential school experience. Consequently, the bureaucratic programs and legal solutions we devise to address the Indian problem ignores the *real* cause of our dilemma: Settler society’s denial of the history, presence and humanity of Indigenous peoples. The paradigm shift from a Settler culture of denial to an ethics of recognition involves building relations based on interacting with Indigenous peoples as political and diplomatic partners, rather than as the victimized recipients of Settler “benevolence and generosity.” Survivors’ testimonies before the AANO Committee speak powerfully to the fact that Canada has still told only a *partial* truth to itself about the legacy of residential schools. Far from being a decolonizing, transformative pathway to healing trauma and reconciling Indigenous-Settler relations, the individualistic tort-based ADR program primarily resolves the government’s legal liability issues, albeit in a “kinder, gentler” way than the litigious, adversarial environment of the courtroom. Thus these testimonies are an ethical contestation, a subjective, emotionally engaged naming of colonial violence and trauma that is necessarily intimate, domestic and personal. Alfred reminds us that for Indigenous peoples, the problem with being “victims of history” is “seek(ing) only to *recover* from

⁴²³ Million, “Telling Secrets: Sex, Power and Narrative in the Rearticulation of Canadian Residential School Histories”, 148-149.

the past...and strive before white judges for *reconciliation*...so that instead of fighting for ourselves and what is right, we seek a *resolution* that is acceptable to and non-disruptive for the state and society that we have come to embrace and identify with.”⁴²⁴ This is the fatal flaw; it is the reconciliation trap that lies in wait for Indigenous peoples.

At the same time, Athabaskan scholar Dian Million argues that the national dialogue in which IRS survivors broke the silence to tell their histories and in which Canada “...actually came to co-narrate this chilling truth about itself...”⁴²⁵ was one in which Indigenous resistance and struggle for self-determination was necessarily embedded in the discourse of trauma. For if survivors had “...refused the policing of their narratives of the welfare state’s tomes or the therapeutic industry’s all-inclusive grasp, would they have been heard at all?”⁴²⁶ Million concludes that although the very act of naming the violence empowers colonialism’s victims and forces Canada to respond at some level, the discourse of trauma is ultimately limiting. Because the colonizer is adept at shapeshifting, we institutionalize Indigenous healing without addressing the core problem, which is that colonial relations of violence continue to exist.

Healing from trauma and historical trauma is now an international discourse on social “collateral damage” among those who have suffered the fate of History as the subjugated, linked to demands for justice from the perpetrators of their distress. Across a spectrum, at the level of the International, community and individual, *healing* is the reaffirmation of boundary; of holism from fragmentation. Canada has attempted to handle the material/physical outcome of its colonialism in Native communities through institutionalization, and now increasingly through therapeutic interventions that are often self-administered bureaucracies... The languages of a therapeutic “age” and a global discourse on trauma are not necessarily liberatory nor democratic... The residential school survivor’s abuse discourse continuously struggles to articulate a something else larger. It is the struggle to make Canada hear: that Canada recognize not only their

⁴²⁴ Alfred, *Wasase: indigenous pathways of action and freedom*. 130.

⁴²⁵ Million, "Telling Secrets: Sex, Power and Narrative in the Rearticulation of Canadian Residential School Histories", 1-2.

⁴²⁶ *Ibid.*, 155.

past acts but their present ones; acts whose resonance and material outcome are a continuation of their colonization, “not a psychological problem to be defused in a therapist’s room.”⁴²⁷

The issue then is not whether healing must occur, obviously it must. Rather it is that when Settlers work solely from within a paradigm of trauma, we deflect our attention away from the “something else larger.” The non-recognition that Indigenous-Settler relations are still colonial. Thus Canada set limits on what can be “claimed.” Not the assault on Indigenous nationhood that was the real purpose of the schools, and the resulting cultural loss and intergenerational impacts, but the sexual and physical assault on individual Indigenous children by individual perpetrators for whose actions we are deemed legally liable. Consequently, the very act of insisting on Indigenous dysfunction while ignoring our own becomes a new form of elegant violence practiced upon Indigenous peoples. Viewed from this perspective, not only did we create insidious methods to alienate George Manuel, Flora Merrick, and other IRS students from their families, communities and nations, but we then compounded the violence in ever more duplicitous ways. Ms. Merrick tells us that she has been victimized twice – first in the school itself and then in the ADR program that failed to offer her the dignity and freedom she is due.

The Transformative, Decolonizing Potential of Empathetic Unsettlement

Canadian society has created a false dichotomy between the relational and sociopolitical aspects of addressing historical injustice. Settlers with a bifurcated consciousness are not unmoved by the very real suffering of survivors, but the empathy associated with false reconciliation, couched in the therapeutic language of healing, itself becomes an instrument of colonialism. Here it is helpful to turn to LaCapra’s insights on the role of empathy in confronting historical trauma. He suggests that when faced with the trauma of the “other,” we may either distance ourselves, (the decoupling or

⁴²⁷ Ibid., 73-74.

withdrawal that Giesen identifies above) or overidentify with the victim to experience vicarious trauma or “surrogate victimage.”⁴²⁸ LeCapra argues that neither response is appropriate nor should we objectify victims by maintaining a “neutral” stance that is “devoid of affect, self-implication and empathetic response.”⁴²⁹ Rather perpetrators must be self-critical and reflective, recognizing that empathy is essential for developing ethical relations with those we have harmed. LaCapra makes an important link between empathy and the need for critical sociopolitical action that is relevant to this study. The two are not mutually exclusive, but necessarily intertwined.

Affective involvement...takes (or should take) the form of empathetic unsettlement...(and is) related to the performative dimension of an account, and the problem of performative engagement with unsettling phenomena is insistent in an exchange with the past...One’s own unsettled response to another’s unsettlement disturbs disciplinary protocols of representation...One may even contend that there can be no durable ethical and political change without the reeducation of affect in its relation to normative judgment...and it would pose the question of the relation between ethical judgment and sociopolitical critique.⁴³⁰

For LeCapra, this performative engagement, or “working through” of historical trauma in the exchange of testimony, is thus linked to broader social and political change.⁴³¹ He argues convincingly that empathetic unsettlement, individual agency and “...the possibility of being an ethical and political agent,” are necessary components of healing the wounds of history that continue to haunt us as victims and perpetrators.⁴³²

In a similar vein, Boler and Zembylas suggest that radical transformative change can only occur when we are willing to be discomforted, expending the “emotional labor”

⁴²⁸ LaCapra, *History in Transit: Experience, Identity, Critical Theory*, 76.

⁴²⁹ Ibid.

⁴³⁰ Ibid., 135-137.

⁴³¹ Ibid., 82.

⁴³² Ibid., 103.

necessary to work through ambiguity and relational complexity.

Discomfort, then, impels critical thinking and inquiry... The ambiguity, thus becomes empowering in the sense that it forces us to produce new narratives... Inhabiting this ambiguity can be very discomfoting and demands substantial negative emotional labor such as vulnerability, anger and suffering... this involves considerable emotional and intellectual risk. However, emotional labor in the context of inhabiting ambiguity can produce favorable results, including self-discovery, hope, passion and a sense of community.⁴³³

Like Lederach, these scholars identify key themes in a critical pedagogy for transformative change – willingness to risk, working with complexity, being authentic, and using creativity or imagination to restory our shared history. The emotional working through that they advocate nurtures critical hope – that is, hope grounded in the grittiness of authentic relationships, not naïve idealism or moral indifference disguised as neutrality. Moreover, this working through is performative, hence the giving and receiving of testimony is not simply an intellectual exercise, but occurs in symbolic acts: rituals of restitution, apology, truth-telling and remembrance.

This work of moral engagement requires Settlers to be self-critical, reflective and authentic in our attempts to learn to listen, and to *act* differently in our relationship with Indigenous peoples. Thus for reconciliation to be authentic instead of just another exercise in colonial shapeshifting, perpetrators must experience an empathetic unsettlement that compels us to question our own understanding of history, the nature of ethical relations and need for transformative sociopolitical change. But we cannot do this if we refuse to see that we have created a dysfunctional society of colonial privilege in which, Alfred argues “the fundamentals of Euroamerican arrogance (are) projected onto the politics of decolonization.” He asks a critical question that Settlers must attempt to answer for ourselves. “Is there a cure? Is there a way to break the grip of this powerful

⁴³³ Boler and Zembylas, "Discomfoting Truths: The Emotional Terrain of Understanding Difference," 128-129.

sickness in the hearts and minds of Settler society?”⁴³⁴ In the next section, I suggest that Settlers can begin healing our collective schizophrenia by developing a better understanding of what it means to be a perpetrator or “innocent” bystander in our relations with Indigenous peoples.

The Problematique of Settler Perpetrators and “Innocent Bystanders”

Settlers believe in the peacemaker myth which as we have seen, is deeply embedded in the Canadian psyche and our collective national identity. We much prefer the role of peacemaker, and understandably so, because being cast and named as perpetrator is far less appealing. It forces us to question the self-congratulatory image we have created for ourselves as “heroes” who are still saving Indigenous peoples. It has become a truism that the Canadian public needs better education about Indigenous peoples and the history of Indigenous-Settler relations. But in reality, there is no shortage of information available on a wide range of historical and contemporary issues. There is a substantive body of academic and popular literature, government reports, legal decisions, internet websites, and media coverage, written from both Indigenous and non-Indigenous perspectives. Yet the majority of Canadians still say they know nothing, or very little, about any of this. Not surprisingly, this self-proclaimed ignorance never seems to prevent us from pontificating about how to resolve the Indian problem. With every high profile media story about the high levels of dysfunction, violence, poverty and ill health that exists in First Nations communities, the politicians, academic and arm-chair experts surface in full force. Equally unsurprising, the “solutions” put forward often reiterate old peacemaker mythic themes of disappearing cultures and the need for Indigenous peoples to assimilate to ensure their economic prosperity and social well-being. Our denial is the feigned innocence of the perpetrator. The pontification is the self-congratulatory

⁴³⁴ Alfred, *Wasase: indigenous pathways of action and freedom*, 113.

arrogance of the benevolent peacemaker. Neither will lead us on transformative pathways towards decolonizing Indigenous-Settler relations in Canada.

As we saw in previous chapters, we cling tenaciously to a mythical collective identity as peacemakers, even as the reality of our actions as perpetrators both historically and in the present, is exposed by Indigenous peoples. They come forward to break the silence, telling their own histories in testimonies that call for moral justice. But Settler society does not particularly want to confront the denial, guilt and fear that we feel as perpetrators of colonial violence rather than makers of justice and peace. We do not want to think that instead of “helping” First Nations communities to be healthy and prosperous – the eternal goal of the benevolent, generous peacemaker - we have simply created more subtle forms of elegant violence. The policies, programs and negotiation processes that we describe as transformative, healing and reconciliatory, do nothing to change the colonial status quo. The process of unsettling the Settler within involves overcoming our denial, guilt and fear to admit to ourselves that we are complicit in perpetuating cycles of colonial violence. As Govier points out, Canadians will have to acknowledge responsibility and that “(d)oining so is likely to involve...painful self-analysis...Both as individuals and as a society, we may have to struggle to overcome collective denial, avoidance, ignoring, ignorance and self-deception.”⁴³⁵ Coming to terms with our perpetrator identity, individually and collectively, is an essential task for Settlers.

I take as a starting point Alfred’s observation that “people, not the system, must be the focus of the movement for change...”⁴³⁶ because governments and courts as institutions of colonialism cannot achieve the deep personal and political transformation necessary to bring about real social change. Institutions do not lead change, the people do. And so it is up to Settlers to ask ourselves hard questions about the hypocrisy of calling

⁴³⁵ Govier, “What Is Acknowledgement and Why Is It Important?” 81.

⁴³⁶ Alfred, *Wasase: indigenous pathways of action and freedom*, 104.

ourselves peacemakers in the world when we have failed to confront the colonial violence and systemic racism towards Indigenous peoples that we allow to exist in Canada. Settlers must “come to consciousness,” giving up our false innocence to engage in deep critical reflection, embracing engagement over a false neutrality that simply masks hegemonic power relations and the epistemological violence and racism of colonialism. Writing about the need to transform Eurocentric consciousness, Metis educator Fyre Jean Graveline notes that “little attention is paid to the recognition of internalized oppressiveness: how do we recognize the structures of oppression that keep us attached to the oppressor role in subtle and overt ways?”⁴³⁷ This is the necessary work of anti-racism and decolonization for Settlers - the struggle to practice a pedagogy of unsettlement that links the personal and the political. Settler society must take action - concrete steps to address colonial injustices with material compensation and symbolic redress in which we acknowledge that we have attempted to erase the history and presence of Indigenous peoples, that grievous wrongs were/are committed, and that we must set things right. Settler denial and silencing of this history is visible on many fronts. In the AANO Committee meetings, we see how political gamesmanship and bureaucratic practices work to facilitate and reinforce our propensity for denial. But the testimonies of IRS survivors also compel Committee members, faced with uncomfortable truths, and perhaps in spite of themselves, to listen more attentively and reflectively.

In his study of restitution as a “mechanism for moral action,” Barkan notes that when victims of injustice speak out, their histories “...dramatically contradict the public’s self-perception and necessitate the rewriting of a heroic national history as one that

⁴³⁷ Fyre Jean Graveline, *Circleworks: Transforming Eurocentric Consciousness* (Halifax: Fernwood Publishing, 1998), 95. On transforming worldviews, see also Sutherland, “Reconciliation from the Inside Out: Worldviewing Skills for Everyone”. On anti-racism, see Paul Kivel, *Uprooting Racism: How White People Can Work for Racial Justice* (Gabriola Island: New Society Publishers, 2002); hooks, *Teaching Community: A Pedagogy of Hope*.

inflicted pain and suffering and even perpetrated crimes.”⁴³⁸ Writing about why acknowledgement of wrongdoing is important, Govier observes that Canadians, secure in our imaginary cultural and moral superiority, do not want to admit that we stole lands and tried to force Indigenous peoples to assimilate into mainstream Canadian society.

We would rather deny, avoid, or ignore such unpleasant aspects of our national history, turning our attention away from studies, reports, and the living victims and victims’ descendants that point to us. We would rather think of ourselves as tolerant and moderate, internationally respected as peacekeepers and participants in a successful multicultural society. The facts about...their history and socio-economic position in Canada tend to be depressing, and a suspicion that our country and somehow, we ourselves, have played a substantial role in their tribulations is most unwelcome... We would rather ignore these unpleasant facts and not come to know more. We would prefer to deny these realities of our political and ethical life. And generally, we do.⁴³⁹

Many Settlers justify this denial either by claiming that they are not personally responsible for what happened in the past, or that Canadians already provide substantive monies to First Nations through transfer payments, programs and services, or land claims settlements. But as I point out earlier, such specious claims ignore what Thompson argues are the obligations and entitlements that societies acquire as “intergenerational communities...(whose) moral and political integrity” depends upon honouring past commitments even as we bind future generations to the political commitments and moral relations we establish today.⁴⁴⁰

In this way, Settlers inherit the moral (or immoral) legacy of our ancestors, just as future generations will inherit ours. Thompson’s theory of intergenerational responsibility is congruent with Indigenous concepts of time and space in which past, present and future are not linear but co-exist, and historical injustices are still alive. Moreover, she says that

⁴³⁸ Barkan, *The Guilt of Nations: Restitution and Negotiating Historical Injustice*, 328.

⁴³⁹ Govier, "What Is Acknowledgement and Why Is It Important?" 80.

⁴⁴⁰ Thompson, *Taking Responsibility for the Past: Reparation and Historical Injustice*, xviii-xix.

negotiating reparations must necessarily involve addressing the “injustices done to family lines.” It follows then that even if individuals were not “harmed,” the damage done to the collective cultural identity of a peoples’ demands public moral reparation.⁴⁴¹ In the case of Canada, IRS survivors have maintained consistently that monetary compensation and symbolic recognition of the collective cultural loss and intergenerational harms suffered as a result of residential school policy must be part of any meaningful and just redress. While most Canadians seem willing to accept that our government bears legal responsibility for sexual and physical abuse claims, we deny any personal culpability for past government policies. But as a society, we *are* responsible and accountable. We cannot undo the wrongs that have been done, but we can choose to act now to end colonialism. If we fail to do so, we are just as guilty as our ancestors. While this particular form of Settler denial is most obvious, others are harder to detect.

Scholars who look at the role of perpetrators in societies that are marred by violence identify the various ways that perpetrators deny their complicity by minimizing or neutralizing their role in illegal and/or immoral acts against particular groups within that society. I am arguing that Indigenous-Settler relations are rooted in colonial violence that is structural, systemic and symbolic, focusing on the latter in the flawed discourse of reconciliation. Within this context, Cohen’s analysis of denial is particularly instructive with regard to the bifurcated consciousness that Settlers maintain as Indigenous peoples demand moral justice. He argues that in the face of the accusatory testimonies of victims, perpetrators must give an account of their actions in which they are “not just telling a story,...but being morally accountable.” In doing so, we may attempt to justify or excuse our actions, accepting partial responsibility in “accounts that are passive, apologetic and defensive.”⁴⁴² Cohen also notes that perpetrators may disavow wrongdoing by separating

⁴⁴¹ Ibid., 130-136.

⁴⁴² Cohen, *States of Denial: Knowing About Atrocities and Suffering*, 58-59.

their “personal selves from their work selves.”⁴⁴³ This is the same phenomenon that Woolford identifies in the bifurcated consciousness of government negotiators who are able to negotiate mandates that may be at odds with their personal ethics and visions of moral justice. Like Neu and Therrien who describe the soft technologies of bureaucratic violence that exist, Cohen notes that “(t)he more tolerant, pluralistic and ‘multicultural’ the society, the richer and more varied will be its motivational accounting system.”⁴⁴⁴ Thus perpetrator denial and moral indifference may take the form of “violent innocence” in which individuals, organizations or whole societies take on an “innocent gaze...a collective mindset that protects illusions from uncomfortable truths...(and) strategic myths are crafted about the organization’s high morality.”⁴⁴⁵ This sort of false innocence is supposedly addressed through better public education. The underlying and often erroneous assumption is that perpetrators who know nothing, once informed about injustice, will take steps to remedy it.

What may happen instead is that perpetrator nations develop strategies that on the surface appear to address wrongs, but in fact, are simply more subtle forms of denying, minimizing and neutralizing uncomfortable truths. Cohen says that “...(m)ost countries with a democratic image to maintain...cannot indefinitely sustain strategies of ignoring allegations completely, crude denial, ideological justification or aggressive counter-attack.” Rather, they tell victims “(w)e welcome constructive criticism...but the situation is difficult; things can’t be changed overnight; you must be patient.”⁴⁴⁶ Governments claim that past wrongs were exceptional and that remedial steps are being taken. But the

⁴⁴³ Ibid., 62.

⁴⁴⁴ Ibid., 64.

⁴⁴⁵ Ibid., 66-67. See also Giesen, "The Trauma of Perpetrators: The Holocaust as the Traumatic Reference of German National Identity," 120.

⁴⁴⁶ Ibid., 113.

legal and bureaucratic solutions put forward deflect the political recognition necessary to make radical change that would transform structures and institutions.⁴⁴⁷ Giesen analyzes another strategy that perpetrators employ. He studies how ordinary German citizens denied their own role as perpetrators of the Holocaust. They created a new national narrative that rationalized genocide as the act of a few. In this way, they too became victims. The perpetrator nation thus denies collective guilt by focusing on the acts of individual perpetrators. He explains that “(d)enying any collective responsibility, the rituals of trials confined the question of guilt strictly to individual acts, in particular as evidenced by formal decisions within organizations.”⁴⁴⁸ Cohen calls these “legalistic games of truth...(wherein) (h)arm may be acknowledged, but its legal or common sense meanings are denied, contested, or minimized.”⁴⁴⁹

If we apply these scholarly analyses of denial to the Canadian response to IRS claims, we see striking similarities. Trials focus on the acts of individual perpetrators as the state engages in protracted legal battles with churches over the apportionment of legal liability, and challenges class action lawsuits that put forward claims based on collective harms such as cultural loss and intergenerational trauma. The ADR program resolves individual claims and compensation depends on proving that the acts of individual perpetrators constitute tort wrongs. The government designs a resolution claims process that is administered in a highly bureaucratic process that survivors say is based on inadequate consultation. But the Minister insists that Canada is listening, that it invites input from all stakeholders and that it is willing to make changes to the program. In reality, the proposals put forward by the AFN and the CBA articulated many of the same

⁴⁴⁷ Ibid., 114. See also Neu and Therrien, *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*.

⁴⁴⁸ Giesen, "The Trauma of Perpetrators: The Holocaust as the Traumatic Reference of German National Identity," 121-122.

⁴⁴⁹ Cohen, *States of Denial: Knowing About Atrocities and Suffering*, 106.

recommendations that had been put forward for years by IRS survivor groups and their supporters. The Iacobucci negotiations and the resulting Agreement in Principle were forged in the face of high profile political controversy, significant political pressure from the AFN, survivors groups, and parliamentary opposition parties, and the threat of massive class action lawsuits looming on the horizon.

In much the same way that the BC treaty process has precluded the negotiating of treaty-making principles or reparative compensation based on the *recognition* of Indigenous history, political rights and jurisdictional authority,⁴⁵⁰ the IRS National Resolution Framework has also been problematic. It too has been rooted in a culture of denial not an ethics of recognition. By focusing on the individual's need to heal in a discourse of trauma, Canada downplays the truth that residential schools were an assault on Indigenous nationhood and collective cultural identity that constitutes a significant infringement on the political, human and cultural rights of Indigenous peoples. In her testimony before the AANO Committee, on February 22, 2005 Minister McLellan says that the ADR program will "open pathways to healing and reconciliation by apologizing, by compensating, and making that process less difficult for those who have suffered." The government's intention is to "build a partnership with aboriginal people" that will "improve" their lives.⁴⁵¹ These are familiar themes in the benevolent peacemaker's repertoire of bureaucratic solutions to the Indian problem that have been around since the days of Morris, Laird and Scott. Based on the dismal historical record of government policies and programs designed to "improve" the lives of Indigenous peoples, there is

⁴⁵⁰ Alfred, *Wasase: indigenous pathways of action and freedom*. 111; Woolford, *Between Justice and Certainty: Treaty Making in British Columbia*. 88-90; 117; James Tully, "Reconsidering the BCTreaty Process" (paper presented at the Speaking Truth to Power: A Treaty Forum, Vancouver, BC, 2000).

⁴⁵¹ Canada, House of Commons Standing Committee on Aboriginal Affairs and Northern Development, "Study on the Effectiveness of the Government ADR Process for the Resolution of IRS Claims." Evidence. (February 22, 2005) <http://www.parl.gc.ca/committee/CommitteePublication.aspx?SourceId=126503> (accessed January 11, 2006)

little reason to assume that such initiatives will create healing, reconciliation or transformative change – the new “buzzwords” in government circles. Thus we are stuck in the quagmire of colonialism – cycles of violence that we seem unwilling and/or unable to escape. The “solutions” we create become bogged down in endless rounds of political gamesmanship, legal arguments and bureaucratic processes involving consultation in which Settlers, through our governments, consult with but do not really listen to Indigenous peoples.

Canadians cannot avoid personal and moral responsibility by simply leaving it to government to transform and decolonize Indigenous-Settler relations. If government has provided a limited response to the residential school legacy, it is because the majority Settler population has not sent a strong message that it should do otherwise. Governments respond to public opinion and Canadian complacency. The moral indifference we show is a clear indicator that we are still in collective denial. Many Canadians reject any notion that they are perpetrators, pointing out that they were not directly involved in the administration or operation of residential schools and had no hand in developing Aboriginal policy. This self-serving logic ignores the fact the Settler society has benefited from the taking of Indigenous lands and resources, a fact which in itself makes us all perpetrators. When perpetrators do acknowledge however, this takes various forms. Cohen identifies these as 1) self-knowledge – the critical reflection that comes with facing truth, but which alone is insufficient; 2) moral witness – in which bystanders take an active role in witnessing unjust acts or bearing witness to victims’ testimonies. In doing so, bystanders also create their own testimonies of accountability and truth; 3) whistle-blowing – wherein the person reveals an “open secret” a heinous wrong that he/she previously ignored or colluded in, but which can no longer be ignored or rationalized; 4) living outside the lie – a person “begins to say what he really thinks and

supports people according to his conscience...(to) discover that it is possible to live inside the truth, to find a repressed alternative to the inauthentic...People become committed, driven, unable to return to their old lives or shut their eyes again."⁴⁵² Martha Minow argues that it is not only victims and *direct* perpetrators that must be involved in truth-telling. The process must also involve "bystanders...who often experience guilt because they avoided harm or else participated, through ignorance and denial, in the regimes producing collective violence" so that they can confront this reality in order to make amends.⁴⁵³

A Canadian society of perpetrator and bystanders is therefore not "innocent" but complicit vis-à-vis our outright denial or tacit acceptance of harmful and unjust acts from which we benefit directly and indirectly. Acts that have denied what George Manuel identified as the presence and humanity of Indigenous peoples. Even if Settlers are morally indifferent and/or historically ignorant, we are nevertheless accountable for the wrongs committed in our name. Our responses to these uncomfortable truths are varied then, ranging from outright denial to full acknowledgment and restitution which may include apology in addition to monetary compensation. Functioning within a paradigm of trauma, Alfred says that "(g)overnments and Settlers do not want to get to the root of the problem...(t)he mainstream vision is of coping," with suffering, not restoring human dignity and freedom. Only the latter, he argues, will enable Indigenous peoples to regain "our ability to dream our new selves and a new world into existence."⁴⁵⁴ Accordingly, they must *restore* their own sense of personal dignity. At the same time, Settlers must *recognize and respect* that inherent dignity. Within the context of decolonizing and

⁴⁵² Cohen, *States of Denial: Knowing About Atrocities and Suffering*, 255-259.

⁴⁵³ Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston: Beacon Press, 1998), 74.

⁴⁵⁴ Alfred, *Wasase: indigenous pathways of action and freedom*, 165.

transforming colonial relations, both actions are necessary.

The coming to consciousness that Cohen describes happens not only for individual perpetrators or bystanders, but sometimes for whole societies as people attempt to overcome violence and trauma. The false innocence of the perpetrator/bystander is revealed in the breaking of silence that occurs in the giving and receiving of testimony. We saw how this happened, even if temporarily, to the parliamentarians who heard the personal testimonies of IRS survivors. In the context of residential schools, the negotiating or restorying of a history cannot be cloistered in the past. A history that is subjective and emotionally engaged is a necessary precondition in the process of unsettling the Settler within. In the next section, I look more closely at Western and Indigenous critical perspectives on history as authentic engagement.

History as Authentic Engagement

I reiterate that Canadian historians and conflict resolution scholar/practitioners have not been particularly effective in creating interdisciplinary research links or in educating policymakers, the courts, or the general Canadian public about the history of Indigenous-Settler conflict and peacemaking. Clearly, lack of *information* is not the problem. As we saw in Chapter Two, anti-oppressive historians like Trouillot and Cook-Lynn suggest that false historical innocence – the oppressor’s attempts to deny, rationalize or minimize the impacts of wrongdoing - is manifested not only in government practices, but in sanitized versions of public history. Trouillot provides further insight into why knowledge alone about historical wrongs, the kind of learning about the past that is sometimes reproduced in public historical commemorations, does not necessarily lead to authenticity and truth. Writing about the controversy that erupted over a proposed public exhibit on African-American slavery, Trouillot says that the

historical presentism identified as problematic by some academic historians, is in fact, essential to being authentic and morally congruent.⁴⁵⁵ He calls for historians to reject “the fixicity of pastness” to “position themselves more clearly within the present.”⁴⁵⁶ Public history commemorations that fail to link past wrongs to current racism and injustice are morally repugnant, inauthentic and self-congratulatory, trivializing victims’ suffering.

...the collective guilt of some white liberals toward “the slave past” of the United States, or the “colonial past” of Europe can be both misplaced and inauthentic. As a response to current accusations, it is misplaced inasmuch as these individuals are not responsible for the actions of their chosen ancestors. As a self-inflicted wound, it is comfortable inasmuch as it protects *them* from a racist present... What we know about slavery or colonialism... should increase our ardor in the struggles against discrimination and oppression across racial and national boundaries. But no amount of historical research... and no amount of guilt... can serve as a substitute for marching in the streets... Authenticity implies a relation with what is known that duplicates the two sides of historicity: it engages us both as actors and narrators... Whether it invokes, claims, or rejects The Past, authenticity obtains only in regard to current practices that engage us as witnesses, actors, and commentators... Thus, even in relation to The Past our authenticity resides in the struggles of the present. Only in that present can we be true or false to the past we choose to acknowledge.⁴⁵⁷

Trouillot makes a powerful argument for the restorying of history that is alive, experiential and subjective. From this perspective, we see more clearly how the charge of presentism can be used as an ideological weapon to try to silence the authentic past. Within the context of public history, academic historians play a role in articulating what constitutes “legitimate” history, one that may be contested by Indigenous peoples. Cook-Lynn points out that when Indigenous scholars attempt to “rewrite” national history, they are accused of being negative or polemical or simply practicing bad scholarship. Thus,

⁴⁵⁵ On the role of historians in addressing public controversy over the Indigenous-Settler past in Australia, see Bain Attwood, *Telling the Truth About Aboriginal History* (Crows Nest, NSW: Allen & Unwin, 2005).

⁴⁵⁶ Trouillot, *Silencing the Past: Power and the Production of History*, 152.

⁴⁵⁷ *Ibid.*, 150-151.

she says, “it becomes a crime to revise a well-loved, scrupulously cleansed, and largely mindless history.”⁴⁵⁸ This is especially the case when national historical narratives are challenged because we have an emotional visceral attachment to our mythical role as benevolent peacemakers that we will not surrender easily.

In her analysis of the ways in which Indigenous narratives about residential schools have been either silenced or articulated over the years, Dian Million argues that the literature on residential schools written by survivors and their allies constitute a significant challenge to mainstream historians who acted as “gatekeepers” of knowledge that was “objective” and “neutral” – the “real” history of residential schools. Like Trouillot and Cook-Lynn, she says that academics often delegitimize the voices of those who write from an anti-oppressive stance, expressing anger, pain and loss in ways that make mainstream historians uncomfortable.

Native analyses on the outcomes of aggressive historical policy, institutional and physical attacks on Native societies did not fit traditional academic expectations for History because they seek to narrate and analyze effects that admit subjectivity, i.e. the experiential subjective pain and social chaos associated with past events that have real effects on Indian lives now. These academic historians with their boundaries have written histories and find causal patterns and connections within the larger project of Canadian history. They do not find present liability, or even effect outside their own projects. Furthermore, it is these historians who have definite issues with emotion, with anger and with pain. Native writers who show emotional evaluation or emotional content in “history” oddly provoke many historians’ ire.⁴⁵⁹

Million notes that even historians who are sympathetic to Indigenous perspectives are unable to recognize the legitimacy of Indigenous voices that are impassioned and engaged because they write not about a remote, safely segregated past, but one that is still present. It is the experiential, subjective nature of Indigenous pedagogy which is under attack by

⁴⁵⁸ Cook-Lynn, *Anti-Indianism in Modern America: A Voice from Tatekeya's Earth*, 175.

⁴⁵⁹ Million, "Telling Secrets: Sex, Power and Narrative in the Rearticulation of Canadian Residential School Histories", 140-141.

mainstream academics because it embraces engagement over neutrality and insists on the immediacy of colonialism. Coast Salish scholar Qwul'sih'yah'maht, Robina Thomas, provides a compelling example of how Indigenous scholars write about the history of residential schools that is alive, giving voice to resistance, survival and renewal and reflecting on the responsibility of bearing witness to the stories – the histories of Indigenous lives.

Indigenous Testimonies - Storytelling, Witnessing and Listening

In her study documenting the experiences of three residential school survivors, Thomas writes about her own community, using storytelling as her methodology. She describes her own ethical struggle to get the stories right, to make sure that she honours and respects the storytellers, the telling and the listening - the giving and receiving of testimony - witnessing. She writes of her personal discomfort and emotional responses as she weaves her own story into the text. This is not an “objective, neutral” history of residential schools based on archival documents, but an honest, searing and life-affirming history of people who attended a residential school and a peoples’ collective will to exist – to live as Coast Salish peoples. Thomas explains the importance of struggling “to learn to listen, not simply hear, the words that storytellers have to share...because they give us teachings that allow us to continue to hear and document these counter-stories – our truths...”⁴⁶⁰ Storytelling and listening or witnessing, she explains, is embedded in the cultural practices of the Coast Salish Big House. Witnesses must learn to listen acutely - “(w)itnessing is a huge responsibility because you are asked to pay attention to all the details of the evening...(this) highly sophisticated process of witnessing continues to be

⁴⁶⁰ Qwul'sih'yah'maht, (Robina Thomas), "Honouring the Oral Traditions of My Ancestors through Storytelling," in *Research as Resistance: Critical, Indigenous, and Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto, ON.: Canadian Scholars Press/Women's Press, 2005), 241.

central to our traditional ceremonies.”⁴⁶¹ Relating this to her own witnessing of survivors’ stories, Thomas writes:

I never dreamed of learning what I learned. I never dreamed of learning to listen in such a powerful way. Storytelling, despite all the struggles, enabled me to respect and honour the Ancestors and the storytellers while at the same time sharing tragic, traumatic, inhumanly unbelievable truths that our people had lived. It was this level of integrity that was essential to storytelling... When we make personal what we teach, as I see storytelling doing, we touch people in a different and more profound way.⁴⁶²

Thomas gives her reader a sense of what it means to listen, as an Indigenous person, to survivors’ testimonies, and in doing so, conveys a strong message about the power of witnessing as more than just “hearing” a story. Drawing on Coast Salish traditions that are enacted in the ceremonies and protocols of the Big House, her storytelling methodology stands in stark contrast to the more circumscribed capacity of Western academic traditions to teach us experientially. Her insights are a catalyst for my own thinking about witnessing from a Settler perspective that raises different questions. How do Settlers witness, that is, how do we listen and respond authentically to Indigenous stories of colonial violence, acting with moral congruence within an ethics of recognition? Before exploring this further, I reflect on my own acts of witnessing – of listening to and honouring the testimonies, the stories of residential school survivors.

Reflections

I begin with a story about the giving and receiving of testimonies. On a wintry morning in a community far from Vancouver, I am about to begin my first day as a “resolution manager” for Canada, hearing the testimonies of IRS survivors. I am not

⁴⁶¹ Ibid., 243-244.

⁴⁶² Ibid., 253.

there to determine legal liability – that is legal counsels' job. Rather I am there to listen to the testimonies of residential school survivors, to acknowledge their experiences and to try to "humanize" this process. I have spent a restless night worrying about how I can possibly do justice to the testimonies I will hear. I cannot even begin to imagine what the night has been like for the survivors I will meet this morning. My stomach is in knots and my heart is pounding, as we arrive at the meeting place. I feel slightly sick. We begin with a ceremonial smudge to clear our minds and cleanse our hearts - to ready us for the hard work ahead. An eagle feather, Indigenous symbol of peace and justice, is passed around, drawing each participant into the circle as we introduce ourselves. By accepting the feather, I understand that I have committed to conducting myself with honour, integrity and truthfulness. I am much calmer now. The process has begun.

Back in Vancouver, I had "prepared" for this process. I read binders filled with documents about the school itself and reviewed the individual claims of the survivors. I've learned a lot, or so I think - but the real learning will happen in this circle. As an elder begins her testimony, I stop thinking about myself, about what I will say to her afterwards, about anything other than entering into the space of her story – to listen. When she is finished, it is my turn to speak, to try to find the words that acknowledge and honour her in some small way. I do not remember now exactly what I said and would not share this in any case. What I do remember is that my words had nothing to do with the legal issues of the claim or reciting some rote words created in an office somewhere by people far removed from this day, this person and this place. I spoke from my heart, with humility and some vague sense that I had been given a gift – one that I would somehow carry with me when I left.

Fast forward. It is late afternoon on the final day. We gather again in the circle to mark an ending. A community traditional healer has come to smudge us - to prepare us to

leave the circle and find our ways home. We are all exhausted, but we talk about what this experience has meant to us. It is a deeply moving moment. Many feelings have been shared in this small room - pain, sorrow, loss, regret. Sharp words of anger and distrust have been spoken. But there has also been laughter and at times a gentle camaraderie settled upon the room as stories told with dignity and listened to with respect, unfolded. I am humbled in the face of the survivors' courage and strength in their determination to call government and church to account. Their life stories are not just of their victimization, but their survival. In this circle, I have learned something about myself, about others, and about the power of stories and ceremony to create space for us to begin the hard work of healing old wounds, acknowledging how our painful history together is a burden we all carry, whether we admit it or not.

For almost three years, I listened to the stories of residential school survivors in both private and public settings. When I left my job to return to the university to write this dissertation, I was unsure where the journey would take me. It has been a year now, and I am just beginning to understand the richness of the gift I was given by the elder on that first day and by all the other survivors afterwards. Sometimes we are offered a gift that we do not want to accept. Perhaps we do not recognize the gift because it feels like a burden, like a heavy responsibility that we don't quite know how to carry. And we are afraid that we will do so poorly. I now see that part of the struggle of this writing is to make sense of my own unsettling in a way that honours the gift. So I write as honestly as I can about what I have learned as a Settler in order to share it with other Settlers, in the hope that it might serve as some small catalyst. This is my truth. Somehow, these testimonies cut to the heart of the matter. It is the people and their stories that teach us. Indigenous peoples have broken the silence to name the violence that has been perpetrated against them and in doing so they call us, as Settlers, to account. How do we

respond as the receivers of testimonies? This is not really a legal or policy question, but an ethical, moral and political one that is rooted in recognizing the presence, humanity and nationhood of Indigenous peoples. Part of the answer lies in understanding the nature of perpetrator denial in the face of historical and cultural trauma. The other lies in how we shift our historical consciousness in transformative spaces of truth-telling and remembrance.

Public Truth-telling and Remembrance

Recently, the study of historical consciousness has emerged to posit new questions and theoretical considerations about how societies remember the past. In conjunction with the rise of reparations politics, and demands for restitution, apology and commemoration related to historical injustices, these works provide new insights into how we might take up Lederach's challenge to restory the history that is alive in the present. In his study of the theory of historical consciousness, Peter Seixas adopts the definition put forward in the academic journal *History and Memory*, as "the area in which collective memory, the writing of history, and other modes of shaping images of the past in the public mind merge."⁴⁶³ Kent Den Heyer observes, scholars "approach historical consciousness as an orientation toward moral reflection and action."⁴⁶⁴ For my purposes here, Roger Simon's work on "remembrance as simultaneously an ethical and a pedagogical practice,"⁴⁶⁵ that is, as critical reflection and praxis, is particularly instructive. He is interested in how we move beyond moral indifference to our histories of violence that are still present by learning to truly listen; to bear witness to testimonies

⁴⁶³ Peter Seixas, ed., *Theorizing Historical Consciousness* (Toronto: University of Toronto Press, 2004), 10.

⁴⁶⁴ Kent Den Heyer, "A Dialogue on Narrative and Historical Consciousness," in *Theorizing Historical Consciousness*, ed. Peter Seixas (Toronto, ON: University of Toronto Press, 2004), 202.

⁴⁶⁵ Simon, "The Pedagogical Insistence of Public Memory," 186.

and silences that speak to us more loudly than words. Simon asks what it would mean to be “touched by the past,” by which he means a drawing closer to those whose stories we have silenced or ignored. More than affect or a spatial closeness, Simon suggests:

It is a ‘welcome’ in which one not only becomes emotionally vulnerable (open to feeling), but also exposes one’s self to a possible dephasing of ego wherein the cognitive terms on which one makes connection with others is shaken, put up for revision... ‘being touched’ demands taking the stories of others seriously, accepting such stories as matters of ‘counsel.’...stories that actually might initiate...a potential shifting of our own unfolding stories, particularly in ways that might be unanticipated and not easily accepted...Public memory is not just that which contributes to knowledge of the past...Quite divergently, acts of memory must become transitive, actions that ‘pass over’ and take effect on another person or persons.⁴⁶⁶

Simon’s observations deepen our understanding of the transformative potential that exists in the giving and receiving of stories. For Settlers, Indigenous peoples’ stories are deeply *unsettling*. They are filled with experiences that upset our cultural identity as a nation of peacemakers. They are stories of violence and dispossession that we do not want to hear because they shake us to the core, causing us to question our national myth and the history of Canada that we thought we knew. Now we are unsure.

Moreover, *how* we listen has the potential to be transformative or to simply recreate the violent patterns of colonialism. Simon provides a powerful example of this. He describes readers’ reactions to a book published by the Sayisi Dene about their experience of relocation by the Canadian government in the 1950’s. Many non-indigenous readers asked why the Sayisi Dene did not just refuse to get on the plane that was to take them away from their community. Simon points out that this question may not only be understood by the Sayisi Dene as “impolite or even cruel, but violent and obscene” because the story is told as part of the community’s healing from trauma. Thus,

⁴⁶⁶ Ibid., 189-190.

the question "...may actually be experienced as a return of physic violence."⁴⁶⁷ Consider then, how IRS survivors might have a similar reaction to questions asked about their residential school experiences by government or church officials or ordinary Canadians. But our questions also contain important clues about our resistance to hearing uncomfortable truths and Simon draws our attention to their transformative pedagogical possibilities.

It is the possibility of a critical, transformative attentiveness that offers listeners the chance to redeem their obscene questions. This attentiveness begins when we view such questions as *symptomatic* of the difficult knowledge contained in the testimony of the Sayisi Dene, knowledge that places a disruptive claim on its non-Aboriginal listener and requires a degree of self-reflexivity in order to be responsive to that claim... Thus a responsible listening to the testimony... may require that we face up to the question of how to hear accounts of Aboriginal-Canadian history that bear witness to displacement, death and degradation... It is for this reason that symptomatic obscene questions asked in the face of testimony hold enormous pedagogical potential... A responsible listening thus may require a double attentiveness, a listening to the testimony of the one who is speaking and, at the same time, a listening to the questions we find ourselves asking when faced by this testimony... we must pose questions to ourselves about our questions...⁴⁶⁸

Settlers' questions – especially those that rise unbidden to our consciousness – and that we might attempt to suppress, are precisely those that we need to attend to most urgently. As we have seen, our response to Indigenous testimonies, our questioning, may reveal itself not only, or even primarily on an intellectual level, but in the feelings and physical reactions that such testimonies engender. Thus learning to listen involves engaging our whole being, using silence not to deny, but to welcome and recognize the transformative possibilities of the stories we do not want to hear. This is the act of making ourselves silent in order to receive testimony. LeBaron describes this as a deep listening that is intellectual, somatic and spiritual:

⁴⁶⁷ Ibid., 193.

⁴⁶⁸ Ibid., 194-195.

the first step in truly listening is silence, not just refraining from speaking but “being silence.” Being silence is not an action or inaction; it is a state that engages our bodies, minds, feelings, and spirits. When we are being silence, we are concentrating, still and calm. Our thoughts are silent. Our attention is in the present... When we are willing to enter a space of listening... we will hear, know and sense things both spoken and unspoken... We don’t know how this happens, but we know that it does happen. It is as though the stories that are shared are doorways into many other stories... Once we enter that world with another, we... can come to know the other much more deeply. This can lead to many things. One of them is change.⁴⁶⁹

Together, these authors enrich our understanding of what it means to give and receive testimony; the sharing of difficult stories as an act of truth-telling that transforms both the storyteller and listener. This sharing of testimony invokes a response from the listener, an apology that is integral to truth-telling and making restitution. All of these potentially transformative acts are embedded in the rituals, ceremonies and symbols that create transformative space.

Responding to Indigenous Testimonies – Apology as Settler Truth-telling

Making restitution to Indigenous peoples for the harms perpetrated upon them in residential schools involves both monetary compensation and apology. The monetary component is extremely important as a symbolic recognition that a grievous wrong has been done for which society must make amends. The demand for group reparations – the “lump-sum payment” for IRS survivors – is recognition of this fact. Within this context, this payment signals to victims of injustice that we acknowledge our guilt. But money alone is insufficient. Apology is also necessary as we have seen in the call for the prime minister to deliver a formal apology to Indigenous peoples with regard to residential schools. If we offer an apology as part of Settler truth-telling, what makes it genuine or authentic? Nicholas Tavuchis tells us that an apology requires us to be vulnerable, to risk

⁴⁶⁹ LeBaron, "Bridging Troubled Waters: Conflict Resolution from the Heart," 236-237.

offering it without expecting or demanding forgiveness in return.⁴⁷⁰ He distinguishes between offering an “account” in which “we necessarily attempt to distance ourselves from our actions,” thus denying responsibility, versus an authentic apology that “requires *not* detachment but acknowledgment and painful embracement of our deeds, coupled with a declaration of regret.”⁴⁷¹ Genuine apologies, then, are “remedial rituals” – an “enacted story”⁴⁷² that is performed with a humility that must be *spoken* – an act that is unsettling because we seek re-admittance to a moral community of human decency whose bounds we have transgressed.

It is not surprising, therefore, that although an oral apology may be supplemented by the written word and symbolic tokens of conciliation, the latter, by themselves, are rarely considered to be sufficient or satisfactory... There is, quite simply, nothing as effective and unsettling as having to address in person someone we have wronged, no matter how much a culture stresses writing, print, or electronic communication to the detriment of speech.⁴⁷³

But Tavuchis does not suggest that the documentary record is unimportant particularly with regard to official or “many-to-many” apologies as opposed to those that are personal. A collective public apology is distinct from private apology, where words alone “have the power to seal an apology.” Accordingly, a formal collective apology for the official record is qualitatively and substantively different. In the public realm, he says, “an unrecorded representative speech has no representational authority...the apology is fashioned for the record and exists only by virtue of the record.”⁴⁷⁴

⁴⁷⁰ Tavuchis, *Mea Culpa: A Sociology of Apology and Reconciliation*, 8.

⁴⁷¹ *Ibid.*, 19.

⁴⁷² *Ibid.*, 13, 18.

⁴⁷³ *Ibid.*, 23.

⁴⁷⁴ *Ibid.*, 102. Also cited in Matt James, “Wrestling with the Past: Apologies, Quasi-Apologies, and Non-Apologies in Canada,” in *The Age of Apology: The West Faces Its Own Past*, ed. Mark Gibney, et al. (Tokyo: United Nations University Press, 2006) (forthcoming), 3.

In a comparative analysis of political apologies made by the government of Canada, political scientist Matt James builds on the work of Tavuchis and others to identify criteria for what constitutes an authentic political apology.

Five initial requirements...can be distilled from this work: 1) naming clearly the wrong or wrongs in question; 2) taking responsibility for the wrong; 3) expressing regret; 4) promising non-repetition; and 5) refraining from demanding forgiveness...along with Tavuchis' own emphasis on recording the apology, we can add reparations...publicity, ceremony, and consistency.⁴⁷⁵

With regard to Canada's Statement of Reconciliation, James concludes that it is a "quasi-apology" which when measured against these scholarly criteria, fails to stand up as a full apology. He notes that although the Statement addresses the residential school legacy, it does not apologize for the broader policies and actions of the government, but refers *only* to the sexual and physical abuse that occurred. The monetary reparations offered in the form of funding for the Aboriginal Healing Foundation were inadequate to meet the needs of survivors, their families and communities. Finally, James concludes that the Statement is only a quasi-apology because of "improper ceremony (as evidenced by the prime minister's absence.)"⁴⁷⁶ As we saw in Chapter Three, ceremony and ritual play a key role in the historical, political and moral life of society. Thus the public ceremonies we enact to mark political apologies send a strong message both to the recipients and to the general public. James suggests that the ceremony held in Ottawa in 1998 to deliver the Statement of Reconciliation is problematic on several fronts.

At a lunchtime ceremony in a government meeting room on Parliament Hill, Minister of Indian and Northern Affairs Jane Stewart sought to address this shameful past. Although Prime Minister Jean Chretien was in Ottawa that day, he did not attend the ceremony. The event featured performances by Aboriginal singers and dancers, and concluded with Minister Stewart presenting the Statement of Reconciliation, which she read aloud, in the form of ceremonial

⁴⁷⁵ Matt James, "Wrestling with the Past: Apologies, Quasi-Apologies, and Non-Apologies in Canada," 3-4.

⁴⁷⁶ *Ibid.*, 9.

scrolls to five Native leaders. The Statement of Reconciliation does not form part of Canada's official parliamentary or legal record; it is merely posted on the Department of Indian and Northern Affairs website... With the important exception of Grand Chief Phil Fontaine of the Assembly of First Nations, the Native leaders present dismissed the Statement as an inadequate response both to Canada's unjust treatment of Aboriginal peoples in general and to the legacy of the residential schools in particular.⁴⁷⁷

As we have seen, the Statement of Reconciliation received a similar response from many Indigenous peoples across the country. Andrew Coyne, writing in *Time Canada*, observed wryly that "For all the misty-eyed rhetoric of the Minister of Indian Affairs... the government is in fact engaged in a bit of plea bargaining, less out of a desire to right old wrongs than to limit its own damages. That may account in part for the tepid, even hostile response the statement received from most of the native leaders gathered for the formal presentation."⁴⁷⁸ We know that apology and ceremony has the potential to heal and transform relationships. But when this highly symbolic ritual is perceived as an act of tokenism, performed without proper recognition and respect, it conveys a stronger message about who has power and is in control than it does about making amends. Those present at the ceremony did not miss the message. Nor did Indigenous peoples across the country who rejected the Statement, not only as inadequate, but deeply insulting in light of the extensive and long-term harms they suffer.

Thus the Statement of Reconciliation set the tone for a discourse of violence with regard to the residential schools that has prevailed ever since. Consequently, when the Minister of IRSRC, referred to the Statement at the Calgary conference that I describe in Chapter Four, he may have intended to remind the audience of something good. But in fact, his action may have had the opposite effect. Many in the audience would remember the statement only as a symbol of continuing denial and disrespect - a further painful

⁴⁷⁷ Ibid., 7-8.

⁴⁷⁸ Andrew Coyne, "Natives as Nations," *Time Canada*, nd

affront to their dignity. The call for a formal apology has not dissipated as recent events reveal. Indigenous peoples are clear on the matter. The prime minister must deliver a formal apology in Parliament. At the time of this writing, it remains to be seen whether or not this will happen. Tavuchis and James' criteria help us to identify the characteristics of genuine apology and to distinguish between personal and collective apologies. In addition, Tavuchis provides insight into how interlocutors acting in official public capacities are circumscribed in their ability to:

act according to their own moral lights... precisely because they do represent the collective public interest. In these instances, apology is an act of diplomacy and "the wording and tenor... typically the product of anonymous authors must be carefully crafted... to avoid ambiguity or further offense... as public representatives, those who convey apology must conform to conventional standards of decorum and protocol... As such, it takes for granted the distinction it engenders and maintains between "on record" (official, binding, and collective) and "off the record" (unofficial, non-binding, personal) statements, positions, sentiments and commitments. These categories are crucial in this context since an apology offered without proper credentials, that is, lacking the moral imprimatur of the group, amounts to no apology at all.⁴⁷⁹

Tavuchis thus provides further insight into the bifurcated consciousness of Settlers acting in public capacities. Within the context of apology, how does this fit with my fundamental argument that if Settlers are to function within an ethics of recognition, we must do so from a position of moral engagement (not neutrality) that makes whole our bifurcated consciousness?

Here it is useful to look at Lederach's work on peacebuilding and reconciliation in which he argues that building a "peace constituency"⁴⁸⁰ using the diverse cultural resources in a society requires peacebuilding at all levels to address the issue-specific, structural and systemic causes of deep-rooted conflict and violence. He identifies three

⁴⁷⁹ Tavuchis, *Mea Culpa: A Sociology of Apology and Reconciliation*, 100-101.

⁴⁸⁰ Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies*, 94-95.

levels of leadership that must be simultaneously active; top-level, which includes political and spiritual leaders with high visibility; mid-level, ethnic/religious leaders, academics and humanitarian leaders; and local grassroots community leaders and officials.⁴⁸¹

Lederach then uses Maire Dugan's theory, "a nested paradigm of conflict foci" to demonstrate how leaders at all levels must address conflict and violence that is embedded in the societal issues, relationships, subsystems and systems that exist.⁴⁸² In this way, Lederach provides an integrated framework for long-term peacebuilding that is holistic, values local knowledge, and respects the complexity of repairing sociopolitical relationships that are embedded in cycles of violence that must be transformed.

Writing about reconciliation between Indigenous peoples and Canadians, Jessie Sutherland observes that "we need to be strategic in order to foster a parallel process of personal and political transformation."⁴⁸³ She suggests that developing appropriate strategies to address the residential school legacy in ways that support Indigenous cultural regeneration *and* enable non-indigenous people to become more effective intercultural interlocutors, can provide the necessary "yeast" for transforming "systems of domination into systems of mutuality."⁴⁸⁴ This is the work of decolonization and Sutherland envisions a particular strategy for developing leadership to take on this role with regard to residential schools.

Transforming First Nations-Canada relations is best begun with a residential school reconciliation initiative. It provides a clear example of how worldview domination leads to victim-offender cycles, intergenerational trauma, corruption, secrecy and denial. Most importantly, I believe the creative minority necessary for the genesis of a new era are connected to the residential school story. For

⁴⁸¹ Ibid., 37-55. See also Maire A. Dugan, "A Nested Theory of Conflict," *A Leadership Journal: Women in Leadership - Sharing the Vision* 1 (1996):9-20.

⁴⁸² Ibid., 55-60.

⁴⁸³ Sutherland, "Reconciliation from the Inside Out: Worldviewing Skills for Everyone", 159.

⁴⁸⁴ Ibid., 3-4.

example, there are survivors who have transcended their own victimization and former teachers who have moved beyond merely taking responsibility for their role and begun to recover their own humanity.⁴⁸⁵

Returning to the issue of apology and in thinking about the residential school legacy, I suggest that the work of restitution, apology, shared truth-telling and remembrance must likewise occur at all levels if we are to begin restorying the violent colonial history that is still alive. Therefore, we need a formal apology from the prime minister that meets the criteria identified by Tavuchis and James. But we also need opportunities for mid-level institutional representatives and ordinary Canadians to honour survivors' testimonies and make apologies. Together with the symbolic monetary restitution provided by group reparations, these actions would enable Settlers and Indigenous peoples to begin the work of healing, transforming and decolonizing together. Truth-telling at the community level provides such a space. It provides for survivors a more personal response to their own unique experience. For institutional representatives of government and churches as well as ordinary citizens, it is a venue wherein the criteria of official and personal apology can be integrated more holistically thus helping to mend the bifurcated Settler consciousness. In the next section, I extend the criteria identified above, building on James' discussion of the significance of ceremony in public political apology. My additional criterion stems from Alfred's redefinition of restitution as an act of purification that is rooted in Onkwehonwe philosophy, worldview and cultural values of justice and peace. We must then ask what are *Indigenous* criteria for restitution and apology, and how can these be recognized and respected by Settlers?

Western versus Indigenous Methods of Making Restitution and Apology

Within the intercultural context of Indigenous-Settler relations, I suggest that

⁴⁸⁵ Ibid., 160.

Settlers must take off our cultural blinders to see that relying solely on Western rituals and cultural practices for making, legitimizing and documenting restitution and apology is ethnocentric and colonial. In much the same way that Western law privileges written versus oral records, this privileging of written official records as evidence of diplomatic practice and political apology is problematic. It denies the existence of Indigenous ways of making, legitimizing and documenting acts of restitution and apology - using story, ceremony, and symbolic ritual in Indigenous spaces of diplomacy, law and peacemaking. The Indigenous official record of restitution and apology is inscribed in the oral traditions of the Feast Hall, the Big House, or the Circle. James quite rightly points out that the Statement of Reconciliation failed to provide a full admission of specific wrongs, that no permanent official parliamentary or legal record exists, both essential criterion for collective official apologies. He outlines the several ways that the ceremony that took place for the reading of the Statement of Reconciliation was improper. The prime minister did not offer a full apology, but sent his minister to deliver a more ambiguous statement of reconciliation. The event took place in a government meeting room over lunch hour with only five First Nations representative and some media present. If the Statement constitutes only a quasi-apology according to Western criteria, it may also have been equally improper according to Indigenous criteria. There were "performances by Aboriginal singers and dancers" that, removed from any meaningful Indigenous diplomatic, legal and cultural context, seem superficial at best. What was the significance of the songs and dances that were enacted? The Indigenous participants no doubt understood their meaning, but how did the Settlers in the room regard them? Of course, we have no way of knowing.

It is therefore quite possible that this attempt to integrate Indigenous ceremony into an intercultural context is another example of token use of ceremony that raises

concerns from both Settler and Indigenous perspectives, albeit for very different reasons. In a critique of restorative justice models (which would include, for example First Nations' sentencing circles) Western legal scholar, Annalise Acorn questions whether justice, healing or righting relationships between victims and perpetrators is possible. As part of her broader critique, she also argues that Indigenous restorative justice practices romanticize a mythical, harmonious past that is designed to support "the political push toward Aboriginal self-government and a more general renaissance of traditional Aboriginal culture."⁴⁸⁶ For her, the inclusion of Indigenous ceremonial practices in courtrooms, classrooms and at conferences are a lesson in intercultural political correctness in which Indigenous peoples get satisfaction from making non-Indigenous people "act" respectfully. Clearly dismissive of Indigenous ceremony, she concludes that:

It may be, then, that the goal for Aboriginal people is achieved merely by getting these self-satisfied (and possibly racist) lawyers and judges in a position of having to stuff whatever it was they were really thinking about the ritual and act respectfully. The recent acquisition of the power to determine the aesthetic of ritual in these arenas of white authority – the courtroom, the classroom, and the conference room – may then be an important victory, in and of itself, for Aboriginal people. Of course, it may also be a sop to Aboriginal people inspired by white liberal guilt. And it may be, that by granting this virtually costless-to-the-whites perk, whites find it easier to avoid having to cough up more tangible and useful rights. But whether getting white people to behave here is more of a gain for Aboriginals than it is a balm for white guilt or the window-dressing of esteem – either way – a white show of obeisance to Aboriginal ritual is not, and cannot be required to entail, authentic respect.⁴⁸⁷

The points Acorn raises are valid enough – First Nations do exercise symbolic power in this instance, although the significance of this is far greater than she suggests. Guilty Settlers who make a show of respect that costs nothing rather than addressing the

⁴⁸⁶ Annalise Acorn, *Compulsory Compassion: A Critique of Restorative Justice*, ed. W. Wesley Pue, Law and Society Series (Vancouver: UBC Press, 2004), 17. Others argue the opposite – that restorative justice as Indigenous justice is highly effective in achieving these goals. See for example, Kay Pranis, Barry Stuart, and Mark Wedge, *Peacemaking Circles: From Crime to Community* (St. Paul: Living Justice Press, 2003).

⁴⁸⁷ *Ibid.*, 59.

substantive issues of compensation and treaties are also guilty of practicing cheap reconciliation that is the hallmark of denial not authentic recognition and respect. Moreover, the intent she ascribes to Settlers reveals the high level of resistance that exists in Canadian society with regard to making *any* space for Indigenous peoples. Essentially, Acorn is saying that First Nations can make her go through the motions, but they cannot *make* her respect their ceremonial practices. Of course this is true. Her *intent* is not to recognize or respect, but to be dismissive, so how could it be otherwise?

Cree-Saulteaux-Dunne Zah scholar, Val Napoleon also finds the widespread use of Indigenous law and ceremony in intercultural contexts problematic. She questions the sincerity of non-indigenous people who *talk* about healing and reconciliation, engage in ceremonies, but in the end, provide nothing of substance. She says that “(I)f reconciliation for Aboriginal people in Canada is ever going to move beyond rhetoric, reconciliation discussions must include substantive societal and structural changes that deal with power imbalances, land and resources.”⁴⁸⁸ For her, the danger is that, divorced from their political, governance and legal systems, stories, ceremonies, symbols and rituals are reduced to nothing more than “rhetorical window-dressing – or a pretty band-aid on a gaping wound” in negotiation processes that remain essentially Western and do nothing to shift the colonial status quo.⁴⁸⁹ Acorn and Napoleon present flip sides of the same coin – identifying both the cultural divide that exists and the challenges we face in attempting to bridge it as interlocutors. Both reject the tokenism of using Indigenous ceremony as a superficial and ultimately meaningless nod to Indigenous knowledge systems, worldviews and beliefs. But Acorn’s stance reflects a cultural arrogance that prevents her from recognizing the presence of Indigenous diplomacy, law and peacemaking practices. This is similar to the journalist’s report on the smoking of a peace pipe at the signing of the

⁴⁸⁸ Napoleon, "Who Gets to Say What Happened? Reconciliation Issues for the Gitksan," 176.

⁴⁸⁹ *Ibid.*, 184.

IRS political accord. It may well be that this ritual act is another example of the window dressing that Napoleon criticizes. Did the politicians who smoked the pipe truly understand its legal and symbolic meaning? We cannot know, but it highlights how important it is for Settlers, as intercultural interlocutors, to develop authentic respect.

A first step in doing so is to build what LeBaron calls “core cultural competencies” that help us identify how our cultural biases influence the design and substance of intercultural conflict resolution processes.⁴⁹⁰ However, LeBaron and others point out that simply making Indigenous law and peacemaking practices visible and developing cultural sensitivity alone is insufficient. David Kahane argues that “(i)t is not enough for those in power to commit, with goodwill, to be reflexive about their cultural values, elicitive in process design, and so on; accounts of training for intercultural sensitivity have to incorporate an analysis of social power, and therefore to be explicitly political.”⁴⁹¹ Thus we begin to see more clearly how entrenched power relations impact the design and substance of North American conflict resolution processes, and concomitant Settler attitudes of disrespect for and non-recognition of Indigenous diplomatic and legal ceremonies. Julie McFarlane points out that “(h)istorically, one culture (Western legal-adjudicative culture) has swallowed all others (including Aboriginal conflict resolution traditions) by imposing its own criteria of substance and process.”⁴⁹² On this point, we must distinguish between integration vis-a-vis making space for Indigenous diplomacy, law and peacemaking practices, because the ideological foundations of Western ADR neutrality models reinforce the attitude that assimilation is

⁴⁹⁰ LeBaron, "Learning New Dances: Finding Effective Ways to Address Intercultural Disputes," 16-21.

⁴⁹¹ Kahane, "What Is Culture? Generalizing About Aboriginal and Newcomer Perspectives," 46.

⁴⁹² Julie McFarlane, "Commentary: When Cultures Collide," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 95.

unproblematic, even desirable.⁴⁹³ John Borrows cautions that “(c)are should be taken that intercultural dispute resolution does not become colonialism’s leading edge, erasing cultural difference in the guise of sharing.”⁴⁹⁴ Like Kahane, he views ADR processes that are dominated by Western cultural understandings of resolving conflict as highly suspect within the realm of Indigenous-Settler relations. He argues that the power imbalances that result in assimilation and appropriation are best addressed by creating separate Indigenous legal institutions to provide appropriate checks and balances on mainstream ADR processes.⁴⁹⁵

Indigenous legal scholars say that non-indigenous people must become more knowledgeable about Indigenous law and legal practices, just as First Nations who work in Canadian legal contexts are conversant with both legal systems. It is a call for the political recognition of Indigenous law. Patricia Monture says that non-indigenous ignorance of Indigenous law is “an imbalance in the sharing of responsibility that reconciling two legal systems requires. It is also a recognition of who holds the power and who does not.”⁴⁹⁶ As we have seen, the non-recognition of “other-culture” methods of dealing with conflict is highly problematic in intercultural Indigenous-Settler relations. Natalie Oman provides a practical example to illustrate this point. In a study of an historical conflict and subsequent negotiation that occurred between the Gitx̱san and the colonial government over a blockade in 1872, she demonstrates how cultural

⁴⁹³ On ADR as an ideology, see Andrew Pirie, "Commentary: Intercultural Dispute Resolution Initiatives across Canada," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 334-336.

⁴⁹⁴ John Borrows, "A Separate Peace: Strengthening Shared Justice," in *Intercultural Dispute Resolution in Aboriginal Contexts*, ed. Catherine Bell and David Kahane (Vancouver: UBC Press, 2004), 344.

⁴⁹⁵ *Ibid.*, 350-353.

⁴⁹⁶ Patricia Monture, "Community Governance and Nation (Re) Building: Centering Indigenous Learning and Research" (First Nations Governance Institute, 2004) <http://www.fngovernance.org/pdf/MontureNationReBuilding.pdf> (accessed January 8, 2006).

misrecognition – our faulty assumption that we understand the other – can have disastrous results or at the very least, unintended consequences. Of particular importance, she notes that although both Gitx̱san oral history and colonial documents agreed on the details of what happened, they had fundamentally different understandings about the *significance* of the event.⁴⁹⁷

In this instance, each party brought to the conflict their own ideas about how to go about resolving conflict and righting wrongs. This cultural understanding is embedded in the techniques or practices we use to recognize other cultural groups – politically, legally and socially – that may lead to misunderstanding. From the Gitx̱san perspective, Oman tells us, the Gitx̱san invited colonial government officials to a feast at which their legal practices of story, song, ceremony and ritual were used to tell the story of the conflict. They acknowledged the government's admission of wrongdoing and its recognition of Gitx̱san jurisdiction, accepting the gifts offered in restitution. An agreement was signed and witnessed in which both parties agreed to respect their respective jurisdictional authorities, after which they celebrated the agreement. In sharp contrast, government officials interpreted the same event as one in which they had meetings with the Gitx̱san wrongdoers where they had to hear a recounting of the grievance that led to the roadblock, listen to songs and stories they did not understand, and pay money to the offenders in return for a signed agreement that they would refrain from blockading again. Finally, the officials reaffirmed their superior jurisdictional authority by firing a gunboat cannon to intimidate the Gitx̱san.⁴⁹⁸ Thus Oman demonstrates the significant cultural divide that exists between Indigenous peoples and governments who have very different criteria for how to properly acknowledging wrongdoing, making restitution and apology.

⁴⁹⁷ Oman, "Paths to Intercultural Understanding: Feasting, Shared Horizons, and Unforced Consensus," 70-71.

⁴⁹⁸ *Ibid.*, 71.

Oman, drawing on philosopher Charles Taylor's work, suggests that in developing intercultural understanding that is based on the *recognition* of other cultures, dialogical exchanges between dominant and other-cultural interlocutors must involve more than "just talk." She suggests that there are points of congruence between Western and Indigenous theories of intercultural understanding and dialogical practices that can help to develop more effective conflict resolution and negotiation strategies.

For Taylor, the dialogical method must extend beyond dialogue itself to *participation* in other-cultural practices. Dialogue alone cannot be the sole means of communicating the standards of value of one culture to members of another, because the language of each cultural group limits the concepts that can be conveyed.... Taylor believes that a qualitative difference exists between intracultural understanding and intercultural understanding. Precisely because I draw primarily upon familiar language and concepts when I attempt to forge an understanding with another person who is shaped by many of the same cultural influences, what Taylor describes as a "fusion of horizons" occurs when we succeed... However, in the more complex cases on *intercultural* understanding... the extent to which our horizons are common... is correspondingly smaller... The dialogical process that gives rise to a meta-language of negotiation in this situation provides the participants with the opportunity to discover a broader (shared) horizon... This notion of sharing horizons seems to express the animating principle of traditional Gitksan and Wet'suwet'en strategies of international relations as well... And the path to intercultural understanding... is through the formal recognition of other-cultural interlocutors and the activity of engaging in ritualized but highly meaningful dialogue with them in the medium of the feast.⁴⁹⁹

Oman's insights help to further explain how the transformative shift from a Settler culture of denial to an ethics of recognition might happen in public performative space that is experiential, subjective, emotionally engaged. Such spaces enable us to develop shared horizons of cultural understanding in which "(s)haring is not distinguished by the interchangeability of the experiences of the partners... but by the quality of invitation, and

⁴⁹⁹ Ibid., 80-82.

of possibility, that each brings to the relationship.”⁵⁰⁰ In this way, Settlers develop a conscious intent to recognize rather than deny Indigenous diplomacy, law and peacemaking practices in the rearticulation of stories of peoplehood – the collective histories of Indigenous nationhood. But this sharing, Kahane argues must be explicitly attuned to addressing power differentials between those who have been marginalized and dominant culture representatives. “In treating the dispute as *intercultural*, the focus should be on shifting authority...in ways that resist particular sorts of domination and marginalization.”⁵⁰¹ Decolonization involves the making of space for Indigenous political philosophies and knowledge systems as they resurge, thereby shifting cultural perceptions and power relations in very real ways.

Indigenous peoples are reclaiming space on a number of fronts in their ongoing struggle for self-determination. Within the residential school context, there are strong connections between the issue of cultural loss related to the IRS legacy, this political reclaiming of culture, and First Nations’ aspirations to protect and revitalize Indigenous knowledge, governance and legal systems as integral to nation-building, community well-being and intergovernmental relations. In a study of the links between healing and governance, Wayne Warry observes that culture (and I argue – its loss) cannot be understood apart from this broader context. He notes that “...while direct participation in healing ceremonies can be important for individuals, the process of community healing is much broader: it is about the protection and preservation of language, political rights, and nationhood.”⁵⁰² In the United States, Cornell and Kalt demonstrate the strong link between Indigenous nation-building and developing culturally relevant governance and

⁵⁰⁰ Ibid., 82.

⁵⁰¹ Kahane, "What Is Culture? Generalizing About Aboriginal and Newcomer Perspectives," 38.

⁵⁰² Warry, *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government*, 221-222.

legal systems.⁵⁰³ The complex issues related to culturally appropriate community building and intergovernmental relations are not the focus of a study on unsettling the Settler within. I have argued that this work rightly belongs with Indigenous peoples, but it is important for Settlers to understand how the regeneration of Indigenous governance and legal systems that are rooted in Indigenous values, is directly related to the overall well-being of individuals, communities and nations.

We know that widespread cultural loss and disconnection from family, community and nation exists as a direct consequence of the legacy of Indian residential schools. In a study of the reconciliation issues that the Gitx̱san are exploring within their own communities, Napoleon notes that community and political relationships are marred by the violence and dysfunction that are a direct consequence of the colonial experience. She says that although the Gitx̱san governance and legal system has "...remained intact...its function has been seriously undermined."⁵⁰⁴ These same circumstances are replicated in many other First Nations communities. Alfred tells us that "...many, if not most, of the spiritual ceremonies and practices of Onkwehonwe have been destroyed or lost."⁵⁰⁵ Yet he also reminds us that there is a "philosophical unity" in all stories and ceremonies that weaves connections amongst all Indigenous peoples, regardless of their nation.⁵⁰⁶ This is also a tremendously important concept for Settlers to understand. One of the unfortunate byproducts of litigation-driven Settler understandings of Indigenous culture is that, like Justice McEachern, some Settlers become obsessed with the issue of what is "traditional" and therefore "legitimate" and what is not. Within this context,

⁵⁰³ Stephen Cornell and Joseph P. Kalt, "Sovereignty and Nation-Building: The Development Challenge in Indian Country Today" *American Indian Culture and Research Journal* 2003 (22) 3:187-214.

⁵⁰⁴ Napoleon, "Who Gets to Say What Happened? Reconciliation Issues for the Gitx̱san," 188.

⁵⁰⁵ Alfred, *Wasase: indigenous pathways of action and freedom*, 250.

⁵⁰⁶ *Ibid.*

Tuhiwai Smith notes that “(p)roblematizing the indigenous is a Western obsession...the indigenous can be perceived as a problem because many are considered ‘inauthentic’ and too ungrateful.”⁵⁰⁷ In a culture of denial, Settlers search for ways to prove that Indigenous cultures no longer exist as they did 100 or 500 or 10,000 years ago. In an ethics of recognition we acknowledge that all cultures change, adapt and regenerate themselves. The continuity resides, Alfred says, in the “basics of this Onkwehonwe spiritual and philosophical belief system...interdependency, cycles of change, balance, struggle, and rootedness.”⁵⁰⁸ This is the foundation of Indigenous cultural resurgence and regeneration. Given that residential schools are deeply implicated in cultural loss, the making of space for Indigenous diplomacy, law and peacemaking practices in public acts of restitution, apology, truth-telling and remembrance is essential to moving us on transformative pathways to decolonization.

In this chapter, I have set out a critical pedagogical strategy for making whole again the bifurcated consciousness of the Settler mind that involves using empathetic unsettlement – the pedagogical practice of discomfort – to dislodge the perpetrator mindset. Transforming from perpetrators into authentic peacemakers requires us to first understand how denial, guilt and moral indifference encourages us to cling to the mythical persona of the benevolent peacemaker in ways that deny, minimize and rationalize our colonial actions. Working from within a paradigm of trauma, we continue to focus on Indigenous peoples as problematic, ignoring our own pathology – the sickness of the colonial mind. Therefore, we need to engage in history authentically by making the links between historical and present day injustices. Decolonizing our historical consciousness involves re-conceptualizing a faulty discourse of reconciliation to reframe it as a transformative space in which Settlers learn to listen to Indigenous testimony. In

⁵⁰⁷ Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 91-92.

⁵⁰⁸ Alfred, *Wasase: indigenous pathways of action and freedom*, 250.

this way, the silence of our denial is transformed into a silence of experiential, subjective, emotionally engaged performative acts of witnessing. We can then make restitution and apology as part of authentic Settler truth-telling and reconciliation.

For Settlers, the work of decolonization is necessarily different because it involves coming to terms with what it means to be a perpetrator not a peacemaker. This entails finding new ways to decolonize our historical consciousness. Both Indigenous and Western critical theory and pedagogy value experiential teaching/learning that connects mind, body, emotion and spirit in the practical work of decolonization. If Settlers aspire to become authentic peacemakers, we must develop *personal* decolonizing strategies that are rooted in authentic respect. This is the key to listening that must infuse the making of space for Indigenous peoples as they regenerate their own histories and cultures.⁵⁰⁹ Moreover, this making of space is also bound up in the *political recognition* of Indigenous nationhood, making visible the history of Indigenous diplomacy, law and peacemaking practices.

In a previous chapter, I described the countermyth of Indigenous diplomacy that challenges the Settler peacemaker myth. Indigenous scholars suggest that the Western world has much to learn about diplomacy and peacemaking from Indigenous peoples if we are able to set aside our ethnocentrism and denial in order to truly learn. This involves a subtle but important dimension of authenticity that has to do with our intention. How do we *demonstrate* by our actions that we *recognize* and *respect* Indigenous history, diplomacy, law and peacemaking practices? How do we honour Indigenous criteria for making, legitimizing and recording acts of restitution and apology that use story, ceremony and symbolic ritual in Indigenous spaces? How do we participate appropriately if (and only if) we are invited to do so by Indigenous peoples? These questions lie at the heart of unsettling the Settler within, and are the subject of the next chapter.

Chapter Six

An Apology Feast in Hazelton: A Settler's "Unsettling" Experience

Invitation to a Feast

Canada and the United Church of Canada will host a potlatch, to be organized by the Gitx̱san, beginning 1:00 PM, Saturday, March 20, 2004 at the Gitanmaax Community Hall, Hazelton, BC to formally and publicly apologize to the Gitx̱san for the internment of Gitx̱san children at Indian Residential Schools...the theme for the potlatch is "Hla Gux̱hs Bekg'um"...a Gitx̱san term that characterizes...symbolically reinstating the survivor into Gitx̱san society. Although the apology will be to the Gitx̱san as a whole, a special focus will be on the 25 survivors of the Edmonton Indian residential school who piloted a recently completed alternative dispute resolution program between the Gitx̱san, Canada, and the United Church...The anticipated 400 guests will not only include dignitaries from Canada and the United Church, but also VIPs from the 40 Gitx̱san extended families, the local bands, local Gitx̱san service organizations, regional and provincial aboriginal political and services organizations. The program will include a welcome from the Gitanmaax Simgigyat, the serving of traditional Gitx̱san feast soup, the usual giveaway and gifting, traditional Gitx̱san drummers and singers...and responses from the Simgigyat of the Gitx̱san after they hear the formal apology from Canada and the United Church. As a commemoration to the internment of the Gitx̱san, the entire event will be filmed, edited and produced for distribution locally and abroad.⁵¹⁰

Reflections

What is the story behind the day that Canada and the United Church of Canada came to Hazelton to host a potlatch in the Gitx̱san Feast Hall and what might it teach us about the importance of making space for Indigenous diplomacy, law and peacemaking

⁵⁰⁹ Ibid., 151.

⁵¹⁰ Gitx̱san Chiefs' Office, "Apology to Gitx̱san for IRS Internment," news release, March 4, 2004 [http://tools.bcweb.net/gitxan/news.shtml?x=3533&cmd\[67\]=x-66-3533](http://tools.bcweb.net/gitxan/news.shtml?x=3533&cmd[67]=x-66-3533) (accessed on January 12, 2006) Hla Gux̱hs Bekg'um means welcome home. Simgigyat are hereditary Chiefs of the Gitx̱san nation. Portions of this chapter are excerpts from my unpublished paper, "An Apology Feast in Hazelton: Indian Residential Schools, Reconciliation and Making Space for Indigenous Legal Traditions," prepared for the Law Commission of Canada, Legal Dimensions Initiative 2005.

practices? How do we, as Settlers, learn to listen to Indigenous testimonies, bearing witness to stories that unsettle us so profoundly? How do we recognize and respect Indigenous ways of acknowledging wrongs, making restitution and apology that are rooted in the stories, songs, ceremonies and symbolic rituals of Indigenous sacred spaces like the Gitx̱san Feast Hall? How do Settlers conduct ourselves if we are invited into these sacred spaces so that we honour the nation, the peoples and the history of those who have given us this gift - the opportunity to engage in acts of restitution, apology, truth telling and remembrance that might purify us? How do we cleanse away the stain of the perpetrator in our struggle to become true peacemakers?

Most importantly, the story of the Hazelton feast is a story of Indian residential school survivors whose courage, strength and dignity teaches us humility and respect. It is a story about a nation welcoming home Gitx̱san men and women who as children were torn from their families and communities, who were unable, through no fault of their own, to learn Gitx̱san language, their nation's laws and their people's ways of being in the world. It is a story of Gitx̱san elders and Simgigyat who gave their permission for non-Gitx̱san to host this feast because it was what the survivors wanted and because this is how one speaks to truth, makes restitution and apology. It is how justice is achieved, according to Gitx̱san law. The story is a testament to the peoples of the Gitx̱san nation who stand strong in their commitment to truth and justice for Indian residential school survivors, their families and communities.⁵¹¹ It is also a story about institutions – about a government and church accepting responsibility, making restitution and apologizing for past wrongs. The assimilationist policies and abuses that did irreparable harm that still

⁵¹¹ I dedicate this chapter to the IRS survivors of the Edmonton Indian Residential School who participated in the Hazelton ADR pilot project and to the peoples of the Gitx̱san nation. I was deeply honoured to work in partnership with IRS survivors, their Advisory Group, Elders, Hereditary Chiefs and the Feast Coordinator, Matilda Daniels, as well as Deanna Sitter, Resolution Manager, IRSRC, and Brian Thorpe, Senior Advisor, Residential Schools Steering Committee, United Church of Canada. I also want to acknowledge Robert Hay, Senior Policy and Strategic Analyst, IRSRC, for his unfailing support and encouragement as we worked to host the Hazelton feast.

*reverberates through Indigenous families and communities today. A very small part of the story is also mine. I was one of the non-indigenous representatives of the government of Canada who worked on the Hazelton alternative dispute resolution (ADR) pilot project, and who participated in the feast that marked its end.*⁵¹²

Overview

The reader will recall that restorying our shared colonial history involves using what John Paul Lederach has termed, “moral imagination.” To reiterate, he defines this process as “the capacity to imagine and generate constructive responses and initiatives that, while rooted in the day-to-day challenges of violent settings, transcend and ultimately break the grips of those destructive patterns and cycles.”⁵¹³ In the last two chapters, I set out the context in which the story of residential schools is unfolding in Canada to demonstrate that Indigenous-Settler relations are embedded in violence. At the same time, I have put forward a pedagogical strategy for unsettling the Settler within that explores how we might engage in public acts of restitution, truth-telling, apology and remembrance – listening to the testimonies of Indigenous peoples. Having critiqued the limitations of current approaches to dealing with the residential school legacy, it is also important not to lose sight of any valuable lessons we might learn with regard to Indigenous peoples’ reclaiming of culture, unsettling the Settler within, and decolonization.

⁵¹² The views expressed in this chapter are solely those of the author and do not necessarily represent the opinions of the Hazelton ADR pilot project participants, the Gitksan nation, the Government of Canada, Indian Residential Schools Resolution Canada, or the United Church of Canada. I want to acknowledge the contribution of Matilda Daniels, who provided valuable feedback on this chapter and was co-presenter of a presentation on the Hazelton Apology Feast at the Canadian Association of Law Teachers (CALT) Annual Conference: Law’s Paradoxes. June 22-24, 2005. University of British Columbia. Vancouver, BC. I also want to thank Dr. Maggie Hodgson for her feedback regarding the Hazelton feast.

⁵¹³ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 182.

In this chapter, I argue that the Hazelton feast is an example of restorying. It is an imaginative, constructive initiative in which the first tentative steps are taken towards breaking the cycles and patterns of violence so deeply ingrained in Indigenous-Settler relations. The Gitx̱san's decision to hold this feast constitutes an act of moral imagination. They connect the cultural loss experienced by survivors of the residential schools to a powerful public reclaiming of culture, family, community and nation in a way that also brings Canada and the United Church into the Feast Hall - not as guests but as hosts with very particular responsibilities to carry out. Moreover, there is a wonderful historical irony in the fact that the very institutions responsible for banning the potlatch come full circle to embrace it, making restitution and apology according to Gitx̱san law. This in itself constitutes a fitting symbolic act that reflects finely honed Gitx̱san diplomatic skills. In moving from settling claims within a Western legal framework to the making of restitution and apology according to the criteria of Gitx̱san law, power and control shifts from Western hands to Gitx̱san hands in decolonizing, transformative ways.

First I must set out a caveat. I am not putting forward a general prescriptive or intercultural model for restitution, apology and truth-telling based on the specific cultural practices of the Gitx̱san peoples. Indigenous peoples across North America share common political philosophies, diplomatic, legal and peacemaking practices that are rooted in the stories, ceremonies and symbolic rituals that are culturally specific to each nation. Although I provide a brief contextual overview of the Feast Hall based on literature, I do not attempt to offer an in-depth analysis or interpretation of Gitx̱san law, potlatch or the protocols of the Feast Hall. To do so, would be inappropriate and disrespectful to Gitx̱san experts – the elders and hereditary chiefs. Rather within the context of unsettling the Settler within, I identify decolonizing principles for working within an ethics of recognition as we make space for Indigenous diplomacy, law and

peacemaking practices. In terms of this study's generalizability, it is these principles that are more broadly applicable with regard to truth-telling and reconciliation processes. Therefore, I write from a Settler perspective about my own experience as one of the participants in the Hazelton feast, with a view to linking it to the broader theoretical themes of this study. I challenge other Settlers to think critically about how to engage authentically and respectfully in acts of restitution, apology and truth-telling. From this perspective, the Hazelton feast is an example of working within a pedagogy of discomfort – the empathetic unsettlement I identified in the last chapter as an essential critical pedagogical strategy for Settlers to develop. The Feast Hall is then an experiential, subjective, emotionally engaged performative space where Settlers can learn to listen and act differently, mending our bifurcated perpetrator consciousness in the process.

From Western Law to Gitx̱san Law – Preparing for the Feast

My story begins after the first phase of the Hazelton ADR pilot project was completed and the project participants wanted to commemorate the occasion. Here is what happened from my perspective. The Gitx̱san survivors decided that they wanted to have a potlatch feast in the Feast Hall where the government of Canada and the United Church of Canada would apologize to the Gitx̱san. Moreover, they wanted to be welcomed home into the Feast Hall, a highly symbolic act that speaks to cultural loss and the reclaiming of Gitx̱san culture and identity. They wanted Canada and the United Church to host the feast, something that had never been done before. While I did not have extensive knowledge about the feasting system, I did understand that in entering into the space of the Feast Hall, we were moving from Western law to Gitx̱san law – from “settling claims” to making restitution, apology and truth-telling according to Gitx̱san legal traditions. There is of course a substantial published literature on these issues from

the *Delgamuukw* case, some of which I describe in Chapter Three. The Gitksan and Wet'suwet'en have tried to educate the courts and the Canadian public about the Feast Hall as integral to the formal governance and legal systems that guide their respective internal and intergovernmental relations.⁵¹⁴ In his survey study of Indigenous law, Borrows explains how the Feast Hall system works.

For millennia, their histories have recorded their organization into Houses and Clans in which the hereditary chiefs have been responsible for the allocation, administration and control of traditional lands. Within these Houses, chiefs pass on important histories, songs, crests, lands, ranks and property from one generation to the next. The transfer of these legal, political, social and economic entitlements is performed and witnessed through Feasts. Feasts substantiate the territories' relationships. A hosting House serves food, distributes gifts, announces the House's successors to the names of deceased chiefs, describes the territory, raises totem poles, and tells the oral history of the House. Chiefs from other Houses witness the actions of the Feast, and at the end of the proceedings they validate the decisions and declarations of the Host House. The Feast is thus an important institution through which the people governed themselves.⁵¹⁵

Within the context of intercultural dispute resolution, Oman notes the importance of the Feast Hall as a place where international diplomatic relations are forged – legitimized and recorded in the oral tradition of the Feast Hall. Thus, she says, “(b)y exposing witnesses to diverse perspectives on the same incidents, this telling is designed to inspire reflection on...the multiplicity of their truths.”⁵¹⁶ This is the dialogical process that unfolds, where multiple truths – narrative, social and restorative truths - are exchanged.

The potlatch feast is also where acts of wrongdoing are made right in acts of restitution and apology. Writing about the potlatch or bah'lats of the Ned'u'ten, Lorna June McCue describes the shaming and cleansing ceremonies that Canada would have to

⁵¹⁴ See for example, Antonia Mills, *Eagle Down Is Our Law: Witsuwit'en Law, Feasts and Land Claims* (Vancouver: UBC Press, 1994); Neil Sterritt et al., *Tribal Boundaries in the Nass Watershed*: (Vancouver: UBC Press, 1998).

⁵¹⁵ Borrows, *Recovering Canada: The Resurgence of Indigenous Law*, 79-80.

⁵¹⁶ Oman, "Paths to Intercultural Understanding: Feasting, Shared Horizons, and Unforced Consensus." 83.

participate in, according to her nation's law, to legitimize its name. She explains that "Canada's colonizing record would be heard...Canada would acknowledge this wrongdoing, make apologies, and be prepared to compensate or retribute the Ned'u'ten for such conduct with gifts. It may take a series of bah'lats for Canada to bring respect to its name."⁵¹⁷ McCue is referring in particular to the process that the Government would have to go through in order to establish treaty-making from an Indigenous perspective. Linking back to my discussion of Indigenous peacemaking in the 19th century, recall the cultural divide that existed between benevolent peacemakers and Indigenous diplomats. But the issue is deeper than simply a cultural disconnect. Settler non-recognition of Indigenous diplomacy, law and peacemaking practices – our refusal to meet Indigenous criteria for legitimacy – is the antithesis of meaningful reconciliation. From a Gitksan perspective, Mas Gak (Don Ryan), explains that Canada has a long way to go before it is ready to reconcile or make peace with the Gitksan or Wet'suwet'en nations:

Eagle down is sacred among the Gitksan and Witsuwit'en peoples and is a symbol of peace. It is used, for example, to sanctify the beginning of our peacemaking process. In addition, eagle down is used ritually in our system of conflict resolution and mediation. Restitution and compensation are key features in any ceremony in which eagle down is used. A prerequisite in any peacemaking process is the willingness of the parties to make peace and to commit themselves to keep the peace "until the heart is satisfied." It is a living process. It's an ideal. The Gitksan and Witsuwit'en have yet to use eagle down in their dealings with the Crown in Canada. The Gitksan and Witsuwit'en have been waiting almost two centuries to make peace with the Crown.⁵¹⁸

Together these authors provide insight into the complexity of the Feast Hall. We begin to understand it as a place of encounter that is based on fundamentally different ideas about

⁵¹⁷ Lorna June McCue, "Treaty-Making from an Indigenous Perspective: A Ned'u'ten-Canadian Treaty Model" (Master of Laws, University of British Columbia, 1998), 238. See also Jo-anne Fiske and Betty Patrick, *Cis Dideen Kat: (When the Plumes Rise): The Way of the Lake Babine Nation*, (Vancouver: UBC Press, 2000).

⁵¹⁸ Mills, *Eagle Down Is Our Law: Witsuwit'en Law, Feasts and Land Claims*, xi. Note the different spelling of Gitksan and Wet'suwet'en being used in 1994.

how restitution occurs, compensation and apology is offered, and peace is made. Mas Gak tells us that this is a living process, the establishing, maintaining and repairing of relationships on Gitx̱san terms. This is not an issue of the past, but one that has carried forward for two centuries as the Gitx̱san wait for Canada to be ready to make peace. Like McCue, he indicates that Canada must take a number of steps over time, to set things right in order to meet the criteria of Indigenous diplomacy and law.

In a living process, there is also change, adaptability and the capacity to apply diplomatic and legal principles in new ways to accommodate new circumstances. Alfred tells us that in addition to language, stories, ceremony and ritual are essential to “the regeneration of authentic indigenous existences,” and that these may be “traditional or part of an innovative regenerated Onkwehonwe culture.”⁵¹⁹ In writing about the feast, I do not assume that Gitx̱san governance and legal systems have somehow remained intact or insulated from the ravages of colonialism. Writing about internal and external reconciliation issues that the Gitx̱san are working on, Napoleon points out that:

Many Gitx̱san laws have been violated by both Gitx̱san and non-Gitx̱san, and this contributes to cultural paralysis, a kind of cultural cognitive dissonance. Reconciliation here would mean either an explicit acknowledgment of, and agreement to, the changes to Gitx̱san law to fit contemporary circumstances, or application of Gitx̱san laws to deal with transgressions...It would be difficult to force participation by the transgressor, but nonetheless, the process of dealing with transgression through the Gitx̱san system, even without the transgressing parties, would be healthy and constructive for the Gitx̱san.⁵²⁰

She argues that with regard to external reconciliation with Canadian society, the emphasis on achieving “forgiveness” is misplaced. Instead she suggests, we should focus on learning how to listen to difficult stories – to stay in the discomfort – so that we can begin to build trust. This is necessarily a fragile and long term process in a relationship marred

⁵¹⁹ Alfred, *Wasase: indigenous pathways of action and freedom*, 249.

⁵²⁰ Napoleon, “Who Gets to Say What Happened? Reconciliation Issues for the Gitx̱san,” 188-189.

by betrayal, where Indigenous peoples have so little reason to trust. She suggests wisely that “(p)erhaps the true task of reconciliation is to work toward freeing the next generation from the anchor of current conflicts.”⁵²¹ Her observations are especially applicable with regard to the legacy of residential schools. The Hazelton feast, I suggest, is one example of adapting law to fit a contemporary circumstance – that is, the desire to repatriate Gitx̱san IRS survivors, and to hold the transgressors, Canada and the United Church, to account by dealing with them within the Gitx̱san system. This is why the making of space for Indigenous diplomacy, law and peacemaking practices is so critical in addressing the cultural loss experienced by Indigenous peoples in the residential school system. Moreover, addressing these wrongs within the Gitx̱san system compels the transgressor to learn to listen and to act differently within a pedagogy of discomfort, to respond to the truths of survivors’ testimonies.

In giving the government and church responsibilities as hosts, the Gitx̱san use their legal system to respond constructively to the violent legacy of residential schools. They seek a way to reintegrate into Gitx̱san society, those who have been lost. Using innovation and creativity – moral imagination - they break down old ways of interacting so that all who are involved in the Feast take on a multiplicity of roles. For perpetrators - the government and church – who have taken Gitx̱san children from their families, their communities, their nation, this means returning them – making restitution and apology in the Feast Hall. In the process, the tables are turned. Settlers are now the ones who are in a diplomatic, political and legal environment that is foreign to us, where business is conducted in a language we do not understand, and legitimized using ceremonies and rituals that are unfamiliar. If we are working within an ethics of recognition, we will struggle to conduct ourselves properly, despite our inability to understand. The Gitx̱san involve us in the feast not just as “visitors” who will fly in at the last moment to

⁵²¹ Ibid., 186-187.

participate, but as hosts who have responsibilities to fulfill. These are humbling moments, rich with unsettling pedagogical possibilities of discomfort for the non-indigenous.

As we began the planning and preparations for the feast - moving from Western law to Gitx̱san law - power and control shifted from Western hands to Gitx̱san hands in very real and decolonizing ways. The Gitx̱san set the mandate, assigned responsibilities, and determined how the process would unfold. This required innovation because of course government and church have no standing, no legitimacy, in the Feast Hall. For this reason and because of the special nature of this occasion, some of the usual Feast Hall protocols could not be followed. Accordingly, internal Gitx̱san discussions were held to decide whether and how such a feast could be held. We were not privy to these discussions, but clearly this was nothing the elders and chiefs could not handle. And so, it was done. In the weeks leading up to the feast, we worked as a team – survivors, the advisory group, elders, Simgigyat, the feast coordinator, government and church representatives. In the process that unfolded we began to see one another in a very different light and the shift in our relationship was striking. Gitx̱san saw government and church representatives not as institutional beings, but on a more personal level, as people. Non-Gitx̱san learned about Gitx̱san culture and the laws and complex protocols of the Feast Hall, not by attending cross-cultural sensitivity training sessions, but by learning to follow the direction of elders, Simgigyat and the feast coordinator so that we would not bring further shame upon Canada and the United Church.

As non-Gitx̱san hosts, we were required to apologize in advance to elders and Simgigyat for breaking some of the usual feast protocols and to ask permission to hold the Feast. This was done two weeks prior to the feast, during the formal issuing of invitations as we traveled to each Gitx̱san community, accompanied by elders, Simgigyat and the feast coordinator, all of whom guided us to ensure that we conducted ourselves

properly and respectfully. In all of the preparations leading up to the feast, I learned experientially by listening, watching and doing. This at various times was challenging, scary, mystifying, and frustrating as I felt completely out of my depth – a humbling experience that I now describe as working within a pedagogy of discomfort. But my experience was by no means a negative one; it was also exciting for all of us to see the feast begin to take shape. As we navigated the labyrinth of often conflicting requirements of Gitxsan, government and church, maintaining good humour and the ability to laugh was essential. At other times, our meetings were deeply moving as the whole group shared with each other, our feelings, our fears, and our hopes for the day of the feast. Doing the work of the feast required me to take off my cultural blinders, surrender a need to control, placing my trust in the IRS survivors, elders and chiefs with whom I was working in a cultural environment and language that was foreign to me. In some ways, it is difficult to articulate all that I learned in this process – much of it is intangible.

Reflecting back to think about working from an ethics of recognition and authentic respect, I turn again to Lederach who says that when working in spaces of reconciliation, one must make relationship central. By this he means focusing less on learning techniques and skills and more on developing “qualities of process and practice...(to) support the complex challenge of authentic reconciliation,”⁵²² or what he calls “relational reconciliation.”⁵²³ Drawing on this, I summarize my understanding of the principles and practices that guided the Hazelton team as we prepared for the feast.

- 1) Relationship and trust-building – Being consistent, transparent and accountable. Keeping our commitments, communicating openly and quickly when problems arose and problem-solving together to resolve them. Willingness to “roll up our sleeves and pitch in” at the community level to do a variety of tasks that required many hands.

⁵²² Lederach, "Five Qualities of Practice in Support of Reconciliation Processes," 184.

⁵²³ Ibid., 185-193.

- 2) Authenticity – being genuinely and deeply committed to the group and to the feast. Willingness to work and learn together with respect, caring and good humour.
- 3) Humility – for non-Gitxsan, not assuming that we already knew the answers, learning to listen and being open to new ways of doing things. Being honest with the group, sharing our feelings (fear, anxiety, sadness, confusion, excitement.) Thinking creatively, reflecting on our experience, staying flexible.
- 4) Engaging Community – In moving from Western law to Gitxsan law, the larger community became involved as the circle expanded to include Elders and Chiefs, witnesses in the Feast Hall, and families. Approximately 500 people attended the feast.

As Gitxsan and non-Gitxsan worked together, our respective roles became less defined by our institutional identities. We began to see each other through new eyes as an intercultural team with a collective shared responsibility to ensure the feast was conducted properly – transforming ourselves and each other in the process. As we moved from Western law to Gitxsan law, our previous working relationships altered; the IRS survivors were empowered, the broader community became involved as Elders and Chiefs guided the feast preparations, government and church representatives learned to follow not lead, and the Feast Coordinator worked as a liaison to ensure the whole team stayed on track.

The Feast Begins

Gitxsan elder, Matilda Daniels, the feast coordinator, explained the feast system to me, comparing it to the Western system of law. Each system has its own protocol and rituals. The difference, though, is that in the Feast Hall, restitution and apology is conducted in a way that attends to the repairing of relationships. Ms. Daniels says that:

Just as it is in the courthouse, there is also a protocol in the Feast Hall – everyone has their place and time to speak. Just as the judge has a gavel, we have a talking stick...It is or would be a most favourable place to deal with whatever has happened...There isn't anything saying that both systems cannot be partnered...In the Feast Hall, the wrong would be addressed. People and family members are witness to the steps taken when payment has been made to the persons harmed,

along with an apology...In this form, it gives both parties opportunity to heal or at least (to) open the doors.⁵²⁴

Reflections

On March 20, 2004, the Gitx̄san Feast Hall was a place of reconciliation – an intercultural encounter where truth-telling, apology, restitution and remembrance was enacted through story, ceremony and symbolic rituals that welcomed Gitx̄san IRS survivors back home to their families, their communities and formally into the Feast Hall. The day began very early, long before the guests were due to arrive. There were many final preparations still to be done. The day before there had been a rehearsal. Gitx̄san representatives met with media to distribute press kits and review protocol, visiting dignitaries flew in, briefings were held. Today the hall itself was a flurry of activity; trucks filled with food and other supplies rolled up to the door, the film crew was busy setting up cameras to capture the event for the Gitx̄san. There were tables and chairs to be wiped down and set up, and throughout the day, there were any number of small logistical crises to deal with as is always the case when preparing for a large event. Finally, all was ready and the Simgigyat and lixsgigyatimgyat (non-Gitx̄san) guests began to arrive. Each was announced formally by the Speaker, Simogyat Wii Elast (Jim Angus) who called out their name and title. Guests were then escorted to their proper place in the hall.⁵²⁵ The feast had begun.

Stepping into the Gitx̄san Feast Hall to stand and speak, learning to follow the protocols, gifting, serving food, offering symbolic payment to witnesses, engaging in the ceremonies and rituals of the feast. All of these things were part of my responsibility as

⁵²⁴ Matilda Daniels, Personal communication. May 14 2005.

⁵²⁵ Gary G. Patsey, "Media Briefing. Apology Feast to the Gitx̄san," (2004). (author's copy)

one of the hosts. When everyone was seated, Simogyat Wii Elast spoke in Gitxsanimax to the Simgigyat and assembled guests, explaining what was to occur. Gitxsan were asked to explain the proceedings during the feast, to lixsgigyatimgyat.⁵²⁶ As one of the hosts, I then had to step forward to explain why certain feast protocols were not being followed, and to apologize to the Simgigyat for this breach. I will never forget this experience which for me remains a personal benchmark in my own unsettling as a Settler! I had not been forewarned that I would be speaking, but because I had said similar things when we went to the communities to extend the formal invitations, I was able to conduct myself properly. I do remember that my knees were shaking as I stood before the assembled dignitaries and guests! I felt a great responsibility to make sure that I did not do or say anything that would be inappropriate, insulting or cause further damage to an already damaged relationship. To my great relief, there were no objections made afterwards to what I had said. Nevertheless, I found myself seeking reassurance from Ms. Daniels and others, throughout the afternoon and evening, about what we were to do and say. In so many ways, the feast was a powerful and humbling experience for me as I learned how much I did not understand about the complexities of the feast. It is one thing to read about the Feast Hall in a book, it is quite another to be in the Feast Hall.

As the time drew near for the Hazelton group to be welcomed back into the Feast Hall, I thought about all they had been through to get to this moment. I thought about the times when our conversations had been excruciatingly difficult, as we went through the process of settling their claims. Yet here we all were on this day - the path we had traveled together since then had changed us. I think we had managed to build a fragile trust between us. Such feelings do not translate easily onto the page, but to me this is the real work of reconciliation. It is forged in the hard places that our heads and hearts travel to as we struggle to learn to live differently together. As each IRS survivor came

⁵²⁶ Ibid.

forward, they were met by elders and Simgigyat from their Houses and Clans who wrapped them in their commemorative button vests emblazoned with symbolic crests, welcoming them with traditional ceremonies, and songs of lament and joy so poignant that as the sound of their voices soared upward and in the sacred silence that followed, we all felt the pain of deep loss and knew the power of belonging and of coming home.

The Power of Public Acts of Restitution, Apology and Remembrance

The power of testimony, the giving and receiving of stories, LaCapra tells us, goes far beyond a mere recitation of narrative facts. Rather, it helps us to “work through post-traumatic symptoms in the present in a manner that opens up possible futures...by bearing witness and giving testimony, narrative may help performatively to create openings...that did not exist before.”⁵²⁷ This is the restorying of history that is alive. Indigenous peoples have always been peacemakers; they have used story, ceremony and symbolic ritual for millennia, knowing that it moves people in ways we do not fully understand. The welcoming home ceremony was strongly emotional for all who were present, but most especially for the Gitx̱san, both the survivors who came home after many years and those who welcomed their return. The ceremony and the apologies given are markedly unlike the events surrounding the reading of the Statement of Reconciliation described in the last chapter. In the Feast Hall, ceremony is embedded in Gitx̱san cultural, political and legal context. The formal apologies offered by senior officials from the Government of Canada and the United Church of Canada (UCC) might be described as containing elements of both political and personal apology. Canada’s apology, delivered by IRSRC’s Director General, Shawn Tupper, said in part:

I stand here today to offer, on behalf of the Government of Canada, a long awaited apology. An apology that is clear, unambiguous and unrestrained. We are truly

⁵²⁷ LaCapra, *History in Transit: Experience, Identity, Critical Theory*, 121-122.

sorry for what happened to you. The suffering you endured as a result of your experience at Edmonton Indian Residential School was wrong, it was our fault, it shall never happen again...the shame is ours, not yours...During our time together we have begun to understand the heavy burden you have carried because of the abuse you suffered...we know this is a burden you no longer want to carry. You want to give that burden to Canada and we accept it. It is ours to bear. The government of Canada accepts responsibility for what happened to you... We are deeply touched by the vivid image of little children being put on the train alone, leaving behind on the platform, weeping mothers, fathers and grandparents. To the families who have lost their loved ones and who today have only cherished memories, we are sorry... Today, we are shedding some of the burdens of our shared past. A past that is marked by policies which suppressed aboriginal culture and values...A past, that records, at times, events which have caused suffering and that are at odds with the commitment of Canadians to human justice. We wish these events had never happened. We wish that we could ignore or rewrite this history or even relive this part of the past. We cannot...The settlement that has been reached...is not merely an end to a process. It is a commitment by all parties to try and build a future that will be better; that brings to an end the racism, the hurt and pain, and the personal suffering that has been your experience...In closing, for those of you who are able to find it within your hearts, either now or in the future, we ask your forgiveness.⁵²⁸

Although the apology meets many of the Western criteria set out by Tavuchis and James, it is not an official apology as they describe it. From a diplomatic and political perspective, the fact that the Gitx̄san, like other Indigenous peoples, have not yet received a formal apology from Canada delivered by the prime minister in Parliament, and placed on formal record, is problematic. Such an apology could set an important political benchmark because for many Indigenous peoples, until this occurs, the delivery of an apology by lesser politicians or senior bureaucrats is unacceptable. Although the announcement issued by the Gitx̄san chiefs emphasizes that the apology is to the nation as well as the survivors, Canada's apology refers to the Gitx̄san people and to the pilot project participants specifically, the word "nation" is not used. A subtle but important distinction that I suggest would not have gone unnoticed in Gitx̄san territory.

⁵²⁸ Author's personal copy. Copies of the both apologies were distributed in press kits, and also exist in the institutional records of government and church, but they are not widely available in the public realm. For example, I could find no electronic version on either IRSRC or UCC websites.

The United Church of Canada's apology, delivered by Dr. Marion Best, former Moderator of the Church, said in part:

... We have heard testimony regarding the physical and sexual abuse which occurred in that school. We have also heard of the other indignities laid upon students at that school... We have heard about the tragic consequences of the removal of children from family and community and the suppression of aboriginal language, culture and spirituality. As we have heard these stories we have recognized the need for the United Church to understand its involvement in the colonization of aboriginal peoples and for its role in the residential schools system. On this and many other occasions yet to come we must accept responsibility for that involvement and that role... On behalf of the United Church of Canada, I apologize for the pain and suffering our church's involvement in the Indian residential school system has caused. We are aware of some of the damage that this cruel and ill-conceived system of assimilation has perpetrated on Canada's First Nations peoples. For this we are truly and most humbly sorry. To those individuals who were physically, sexually and mentally abused... I offer you our most sincere apology. You did nothing wrong. You were and are the victims of evil acts that cannot under any circumstances be justified or excused. To the Gitx̄san nation I also offer words of apology. You have a rich culture that has existed since time immemorial. You have a language and a justice system. This culture, this language and the traditions of the feast hall were not respected by the newcomers to this land. The gifts which the Gitx̄san nation had to offer were suppressed in the colonization of this land. The removal of children from families and communities, the punishment exacted for speaking Gitx̄san in residential schools and the disruption of Gitx̄san spirituality and tradition are wrongs which cannot be excused. For our role in this attack on the Gitx̄san nation, we offer our profound apology. We also offer our commitment to seek new ways of walking with respect and honour for the Gitx̄san language, spirituality and culture.⁵²⁹

The UCC apology is reflective in tone, identifying the need for the Church to better understand its role in implementing assimilationist policy. It makes the broader connection between colonization and church actions. It does not specifically vow that these events will never happen again, but is unequivocal in condemning its own complicity. There is a strong recognition of Gitx̄san nationhood, law and culture. The residential schools are rightly described as an attack on the nation. The UCC commits to working in new ways that respect and honour Gitx̄san language, spirituality and culture. It

⁵²⁹ Ibid.

has been working actively with its own congregations to develop strategies for addressing the residential school legacy at the local and community level. The Church has also developed a vision statement with guiding principles for taking anti-racist, decolonizing actions within their own institution and in relationship with Indigenous peoples.

Writing in the *United Church Observer*, Keith Howard, who was one of the witnesses at the Feast that day, explained that after the church's apology, (and his comments apply equally to Canada's apology) "...the survivors do not leap to their feet and say, "Oh, it's alright. We know the church meant well and that you are good-intentioned people. We exempt you... Within the Gitanmaax feast hall there remains a sense of wait-and-see – for the church, Canada and the survivors. Maybe, if our lives reflect our words, forgiveness might be offered."⁵³⁰ In other words, our actions will speak louder than our words. Many of the Simigiyat who responded formally to Canada and the Church said as much. The apologies may not have been formally recorded according to Western criteria, but in Gitx̱san territory, they are evaluated according to Indigenous criteria for making restitution and apology. They become part of the oral record, spoken in the Feast Hall, accepted or rejected by the Simigiyat assembled there, and duly witnessed by all those who attended.

In the Feast Hall that day, many people spoke out in righteous anger about the injustice that had been done – to them, to their families, to their communities and their nation. This too is testimony. In an act of remembrance the names of all the Gitx̱san children – those still living and those now lost to their families and nation - who had attended Edmonton Indian residential school were read out, to remember and honour them. It was a long list – marked solemnly by a drum beat after the reading of the names of the deceased. Testament to how many lives were changed irrevocably by those who in

⁵³⁰ Keith Howard, "Residential School Survivors Come Home," *The United Church Observer* (June: 2004) http://www.ucobserver.org/archives/jun04_crst.htm (accessed January 6, 2006).

their cultural arrogance thought that their ways were better. This truth-telling speaks bluntly to Settlers – we stand in the Feast Hall to receive these living testimonies. Denial is simply not possible in the human face of this history that Canadians have hidden so well from ourselves – the past that is still present.

The Paradox of the Gitx̱san Feast Hall – Teachings and Lessons Learned

The lessons learned came when both the church and government recognized that we do have a system and that it is ours to use and has worked wonders for ones' wellness, especially those who had survived residential school...It would take 'generations' before the wrong done to the people could be restored. We can't just put a bandage on it and hope that it would go away. We have to work together to take responsibility for everyone's well being – to take that step to put closure to such an ordeal and to open another door to a nations' wellness. Acknowledgment; acceptance; responsibility; harmony. ⁵³¹ (Matilda Daniels)

At times, as I looked around the Feast Hall that evening, I felt overwhelmed by the damage that Canadians have wrought upon Indigenous peoples. As I remembered the stories of each of the men and women who came forward to be welcomed home, I thought about the legacy of pain and loss that began for them when they were taken from their homes, as children, to the residential school. Yet I also knew their stories are powerful testaments to resilience, dignity and quiet courage – the individual and collective strength of the Gitx̱san peoples. As I fulfilled my responsibilities as one of the hosts – distributing soup, gifts, and offering payment to those who were witnesses ⁵³² - in all of these things I was taught by Gitx̱san men and women who guided me with an unfailing spirit of generosity and kindness. They were at once, victims, IRS survivors, and proud people of the Gitx̱san nation. I was at once, Settler perpetrator, host, and a willing learner. This is the power of working together: victims are empowered, perpetrators are

⁵³¹ Matilda Daniels. personal communication. May 14, 2005.

⁵³² Patsey, "Media Briefing. Apology Feast to the Gitx̱san." (author's copy)

humbled. This is the paradoxical richness of the Feast Hall and of reconciliation as a transformative encounter. It is where we discover the full complexity of our multiple identities and our shared humanity. We begin to break out of our binary roles of victim and perpetrator to engage in long process of restorying the history that is alive. One of the Simigiyat who formally responded to the apologies said he thought the feast was a good thing, but he reminded us that it is only a beginning. Many more Gitxsan and Indigenous peoples elsewhere are waiting for their truths to be heard, for moral justice to be done, before true reconciliation can begin between us. The Gitxsan, in deciding to hold the feast and involve Canada and the Church as hosts, risked taking a different pathway out the false discourse of reconciliation that reinforces cycles and patterns of colonial violence.

The Gitxsan Feast Hall is one of many places of public memory where Indigenous diplomacy, law and peacemaking practices have been enacted since time immemorial. For all its complexity, the paradox of reconciliation is actually simple; it is a paradox within a paradox. The making of space for Indigenous diplomacy, law and peacemaking practices as integral to restitution, apology and truth-telling acts as a fulcrum point, decolonizing and rebalancing our relationship. The political recognition of Indigenous law and respect for Indigenous expertise shifts the balance of power and control from Western hands to Indigenous hands, thereby reversing the colonial taking of space that is key to decolonization. Indigenous peoples know much about how to achieve moral justice and repair broken relationships in the place of shared humanity and encounter that is true reconciliation. The challenge for Settlers is to listen attentively and reflectively, and to simply acknowledge with humility that Western knowledge is but *one* way, not *the* way of knowing the world. Our responsibility as Settlers to the Indigenous peoples of this land, to "...those who arrive facing us; who...draw near, demanding – not just apology, memorialization, and reparation – but something of our time, energy, and thought..."⁵³³

⁵³³ Simon, "The Pedagogical Insistence of Public Memory," 199.

demands nothing less of us if we hope to transform ourselves from perpetrators to authentic peacemakers.

Reflections

The Feast Hall taught me important lessons, compelling me to rethink my cultural assumptions about the meanings of history, truth, justice and reconciliation. I learned that history resides not in dusty books, but lives in the stories we carry in our hearts, minds and spirits as we struggle to understand, acknowledge and transform the past that is still present. I learned that truth is not only about facts, but about the harsh realities of a shared colonial experience that is rooted in human relationships. I learned that justice is found not in case law and courtrooms but in the exquisite beauty of sacred dances, symbols and songs, the strong words of elders, Simgigyat, and families, and in the healing ceremonies and rituals of the Feast Hall that express the laws of the Gitxsan nation. I learned that reconciliation is not a goal, but a place of transformative encounter where we gather the courage to face our history honestly despite the uncomfortable feelings of fear, guilt, and shame that public acts of restitution, apology and remembrance engender. I learned that Indigenous sacred spaces are powerful. They move us to reconnect with each other in ways that speak to our highest moral values as human beings of integrity so that we can do the hard work necessary to repair and transform relationships.

This story is one of many that mark the first small steps in a long journey that we must take together to restore right relations, laying the groundwork for decolonization and the transformation that can lead eventually to a just and meaningful reconciliation between Indigenous peoples and Settlers. Ultimately, the Hazelton feast is also a story about moving from Western law to Indigenous law in coming to terms with our past,

recognizing its ongoing legacy even as we struggle to find new decolonizing ways of working together that shift power and perceptions. The teachings of the Feast Hall enriched and deepened my thinking about why it is so crucial to unsettle the Settler within; decolonizing a history of violence and trauma that is, after all, located in the domestic, the intimate, the personal. The Feast Hall in Hazelton in Gitx̱san territory is a very long way from the office towers in cities where we can safely feel distanced from the victims of our benevolent peacemaking. Shifting from a culture of denial to an ethics of recognition requires engaging history authentically, listening to Indigenous testimonies. It also requires Settlers to act differently in our everyday relationships with Indigenous peoples, knowing that we will make mistakes and being willing to risk trying anyway.

Being in Gitx̱san territory, then, made me more aware that my own deepest learning has always come from those times when I was in unfamiliar territory – culturally, intellectually, and emotionally. For Settlers, there is power in this place of “not knowing,” of unsettling, that is key to our decolonization. Being in this place of not knowing and working through our own discomfort, opens us to deep, transformative learning. The kind of experiential learning that engages our whole being, our heads, hearts and spirits. The kind of teaching and learning that happens in the Feast Hall. And so the story of the Hazelton feast and the teachings it holds for us both ends and begins here.

Chapter Seven

From Perpetrators to Peacemakers: Settlers as Indigenous Allies

I believe it is possible to move beyond this ugly and often violent history, to be a society that is founded not on mere “tolerance,” but on respect, a society that lives up to its word. But I know we can’t move forward until we look the past in the eye, until we understand ourselves more deeply, acknowledging and exploring even the darker aspects of our history – not to damn our forebears, but with hope for a more humane world.⁵³⁴

My search for transformative pathways to decolonizing Canada reveals why unsettling the Settler within is so important, and how understanding myth, ritual and history sheds illuminating light that helps to guide us along the way. Without facing our true history as perpetrators of violence, there can be no genuine “transformative” new relationship with Indigenous peoples. The current discourse of reconciliation is destined to fail on this account because in our misguided quest as benevolent peacemakers, intent on fixing the “Indian problem” with little disruption to our own lives, we ignore a simple yet profound truth: *we must transform ourselves, our myths, our attitudes, our actions*. In order to do this, we must “own”, explore and understand what it means to be colonizer, a perpetrator of injustice. We cannot gloss over the darker aspects of our history nor should we ignore the complexity of our shared past that reveals paths we have denied and forgotten. What if the West had continued to listen seriously to Indigenous visions of law and peace that characterized the Encounter era described by Robert A. Williams, Jr.⁵³⁵ Most obviously, the fact that we did not, reflects the significant shift in power relations that occurred as Settlers became the dominant culture in North America. We no longer

⁵³⁴ Victoria Freeman, *Distant Relations: How My Ancestors Colonized North America* (Toronto: McClelland & Stewart Ltd., 2000), 467.

⁵³⁵ Williams, *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600 – 1800*, 5, 13.

listen because we do not have to, just as we do not honour treaties, choosing instead to cast Indigenous peoples as victims, not partners in our shared story. Benevolent peacemakers, those perpetrators who think that a cheap reconciliation is enough, do not aspire to transform social and political relationships of colonialism. Alfred reminds us that “from the perspective of the Onkwehonwe struggle, the enemy is not the white man in racial terms, it is a certain way of thinking with an imperialist’s mind.”⁵³⁶ Thus, it is possible and necessary for Settlers to be Indigenous allies in decolonization. Settlers who would be Indigenous allies choose pathways of transformation that teach us how to shift from being perpetrators to authentic peacemakers, accepting that we will struggle, be discomforted and unsettled. We cannot be culturally arrogant colonizers masquerading as allies, who come to the meeting place thinking that we have all the answers for Indigenous peoples. They have never sought our “solutions” but rather our willingness to treat them with respect, recognizing their right to exist with dignity and freedom, as Indigenous peoples. From this perspective, our lifework as Indigenous allies is to understand our own experience as perpetrators and to be critically reflective as we learn to listen to Indigenous peoples. To do our own work. Work that is rooted in humility, the wisdom to know that we do not know, and a willingness to risk unsettling ourselves. Our responsibility as Indigenous allies is to take concrete action in the world at international, national, community and individual levels. We start from where we are.

In this study, I trace the historical roots of Canada’s national peacemaker myth to challenge the story that Settlers tell ourselves about our relationship with Indigenous peoples. In this version of the colonial story, we believe that Indigenous-Settler relations have been characterized by peace not violence, unlike our Settler counterparts in the United States. The story of our collective identity as benevolent and generous peacemakers – neutral arbiters of law and justice – emerges full blown in 19th century

⁵³⁶ Alfred, *Wasase: indigenous pathways of action and freedom*, 102.

treatymaking, rooted in a racist mindset of cultural superiority. Contrary to this popular myth, I argue that Settler violence, against Indigenous peoples is Canada's *true* story. This violence against Indigenous peoples is revealed in everyday bureaucratic processes and negotiation practices that can be traced from their colonial roots in Indian law and policy through to the flawed discourse of reconciliation that now dominates Indigenous-Settler relations in the 21st century. The true nature of our relationship is revealed most starkly in the history of residential schools, embedded in a discourse of violence that surfaces in highly charged dialogues between Settlers and Indigenous peoples.

Victim/perpetrator behaviour and attitudes are deeply ingrained in the cycles of violence that we must transcend. The public controversy over Canada's ADR program designed to settle Indian residential school claims demonstrates the authenticity gap that exists between the rhetoric of reconciliation and the reality of the ADR program designed to settle IRS claims. We see conflicting Indigenous-Settler visions of reconciliation as the AANO Committee meetings unfold to reveal an ADR model that privileges neutrality over engagement – legal certainty over moral justice. At the same time, Settlers remain obsessed with fixing the “Indian Problem,” as we continue to problematize and pathologize Indigenous peoples. We deflect attention away from the “Settler problem,” (our own complicity in maintaining the colonial status quo in a paradigm of trauma), cloaking violence in a language of healing and reconciliation that identifies Indigenous dysfunction and ignores our own.

As perpetrators of violence, we deny the history, presence and humanity of Indigenous peoples, erasing from our national consciousness, the countermyth of Indigenous diplomats - the diplomacy, law and peacemaking of the Encounter era that was practiced on the middle ground, rooted in the stories, ceremonies and symbolic rituals of Indigenous nations across Turtle Island. Drawing on Indigenous and Western

critical theory and transformative pedagogy, I set out a pedagogical strategy for unsettling the Settler within that demands of us not neutrality but authentic engagement as we mend our bifurcated perpetrator consciousness. And I have mirrored this approach by reflecting on my own decolonizing experiences. This empathetic unsettling connects head, heart and spirit as we challenge our own myth, ritual and history. Breaking out of colonial cycles of violence requires using moral imagination to restory our shared history. Canadian popular history reinforces the peacemaker myth as the public claims not to know about the harms we have perpetrated upon Indigenous peoples. This is the false innocence – the moral indifference - of perpetrator denial, guilt and fear that must be dislodged. The paradigm shift from a culture of denial to an ethics of recognition requires Settlers to learn to listen, and act authentically, in the face of Indigenous testimony (the history of dispossession, racism and oppression that is alive) through public acts of restitution, apology, truth-telling and remembrance. The power of testimony to break through Settler denial is evident in the reactions of the AANO Committee to the stories of IRS survivors. Thus the giving and receiving of testimony is a critical pedagogical practice that is potentially unsettling and transformative. I compare Western and Indigenous criteria for making restitution and apology to argue that in the process of decolonization, we must take into account Indigenous diplomatic and legal practices. From this perspective, restitution and apology are enacted, legitimized and recorded, not according to Western criteria, but in the stories, ceremonies, and symbolic rituals that occur in Indigenous spaces.

Drawing on my own experience, I argue that the Hazelton apology feast held in the Gitx̓san Feast Hall is an example of restorying. The Gitx̓san use moral imagination, connecting the cultural loss experienced by Indian residential school survivors to the political reclaiming of culture, family and nation. They draw government and church into the Feast Hall not as guests, but as hosts with particular responsibilities to carry out. In

moving from settling IRS claims using Western criteria to making restitution and apology according to Gitx̱san law, power and control shifts in decolonizing ways that unsettle Settlers and empower survivors, transforming relationships in the process. The Feast Hall is a transformative space, an experiential, subjective, emotionally engaged performative encounter of reconciliation. Alfred emphasizes the importance of ceremony and ritual for Indigenous peoples because “(i)t creates and strengthens the connections between people, fostering relationships of mutual support and caring.”⁵³⁷ Oman tells us that the Gitx̱san and Wet’suwet’en potlatch system also provides space for international relations in the formal recognition of other-culture interlocutors who participate in the ceremonies and rituals of the feast.⁵³⁸ Westerners are just beginning to articulate what Indigenous peoples have known for millennia about the power of story, ceremony and ritual to transform us. Writing about the central role of ritual in peacebuilding, Schirch notes that “ritual occurs in a unique social space...(wherein) humans learn by doing...it confirms and transforms people’s worldviews, identities, and relationships with each other.”⁵³⁹ But ceremony also does something else. It enables us, however briefly, to imagine something different, or as Alfred says, “...to experience a higher truth, a spirituality.”⁵⁴⁰ J. Edward Chamberlin explains why ceremonies are important.

They give us a way of saying “I believe” when we are not sure; of getting consolation when our hearts are broken; ...of understanding every word when the words do not make sense. They take place in moments of grace, but these moments are always precarious and often downright dangerous. They build up and break down our sense of who we are and where we belong. And they keep us in a state of wonder. The common ground...is a state of mind.⁵⁴¹

⁵³⁷ Ibid., 249.

⁵³⁸ Oman, “Paths to Intercultural Understanding: Feasting, Shared Horizons, and Unforced Consensus,” 82

⁵³⁹ Schirch, *Ritual and Symbol in Peacebuilding*, 2.

⁵⁴⁰ Alfred, *Wasase: indigenous pathways of action and freedom*, 249.

⁵⁴¹ Chamberlin, *If This is Your Land, Where are Your Stories: Finding Common Ground*, 238-239.

The paradoxical richness of the Feast Hall enacted through story, ceremony and ritual, engages the full complexity of our multiple identities. Connecting head, heart and spirit in ways that make us vulnerable, they enable us to accept harsh truths, reclaim our humanity, and engender hope.

Unsettling the Settler within, in acts of restitution, apology, truth-telling and remembrance, is a first step on transformative pathways towards decolonizing Canada. Obviously, not all Settlers will become involved such processes. So how do we build these decolonizing principles and practices into our lives more generally at all levels of society? We can create transformative learning and teaching possibilities in a variety of formal and informal settings: classrooms, negotiating tables, policy forums, community halls and public history spaces. We can shift our historical consciousness by gaining a deeper understanding of how myth, ritual and history matter in the work that we do, the classes we teach, the law and policy we make, and the real history of Indigenous-Settler relations that we have denied. We can begin the practical everyday work that will move Settler society from a culture of denial to an ethics of recognition towards a culture of justice and peace. We can link critical reflection and action to vision and hope. We can transform and decolonize ourselves.

Reflections

Several years ago, as part of my work in policy negotiations, I attended a public meeting involving government officials and chiefs from communities that are dealing with conflicts related to on-reserve roads issues. The government people arrived with reserve maps, copies of an Order-in-Council, charts showing cut-offs and other related documents. But before getting into the technical issues that were the focus of the meeting, the chiefs wanted to talk about the history – the stories about the roads that cut through

their reserves, about what the impacts were, and how they still affect their communities today. The road is a metaphor for the history that is alive and the legacies of colonialism that still haunt us. It is also a symbol, an everyday representation of past wrongs that manifest themselves over and over again at negotiating tables. Whether the issue is roads, or lands, or fish, or trees, or treaties, or residential schools, the unresolved history of our relationship is played out in the everyday world. More recently, I was at an academic conference where a provincial official from Ontario gave a paper about a consultation process she was involved in with First Nations communities. She began by talking about how she and her colleagues prepared for the meeting by considering issues related to meeting the legal and policy requirements for consultation with First Nations. She then paused thoughtfully and said, "but when First Nations arrive at the table, they bring the weight of history with them." My immediate thought was, "and so do we, we just don't see it." As Settlers, we also bring the weight of our colonial history with us when we arrive at the table. It is just that the load is distributed differently in ways that privilege us, as benevolent peacemakers.⁵⁴²

As non-indigenous front-line government workers, negotiators, or policymakers, our vision is often limited by our historical and cultural blinders that deny or silence history at the table. We tend not to question the overarching government policies, court decisions and corporate agendas that define the substance of our relationship. Following an imperative that focuses on the future and denies the past, we do not see, or we choose to ignore, the colonial boundaries and imperial mindsets that shape the very institutions and programs within which we work in the present. When First Nations' policies and programs fail to deliver "successful outcomes" we attribute this to the shortcomings of Indigenous communities and individuals or to our own operational failures. Given the

⁵⁴² Author's conference notes. DEMCON. Consortium on Democratic Constitutionalism. University of Victoria. Victoria BC Canada. Oct 1-3, 2004.

severe social, economic and health crises that Indigenous peoples face, it is easy for us to rationalize why, as benevolent peacemakers, we continue to focus our attention where we have always been most comfortable – developing policies and programs to “fix” these problems. But it is also apparent that our ongoing efforts to do so have failed in the past and according to all the social, economic, health and education indicators, are failing now. But despite all evidence to the contrary, Settlers persist in believing that we know what is best for Indigenous peoples. We “consult” and “negotiate” with First Nations communities, framed in a language of partnership and government-to-government relations, but the resulting policies and programs are not jointly developed. Rather we hold onto the final decision-making powers, maintaining control over the scope, substance and processes related to treaty and “self-government” negotiations and the resolution of historical claims. We rarely examine more closely our own motives and rationalizations as privileged dominant culture Settlers with the power to determine the extent to which we will make any substantive space for Indigenous peoples.

In my own experience, and in working with other non-indigenous people in Indigenous contexts over the years, the struggle of personal decolonization is hardest for us to engage in or discuss openly. Rather we find it easier to distract ourselves by doing the busy work of negotiating treaties, settling claims, working on community economic development initiatives, or even writing and teaching about Indigenous issues! And we think that this is enough. It is far harder when we are on the ground, learning how to be in respectful partnership with Indigenous peoples, especially when we are confronted by our own colonialism. This culture of denial is further reinforced because we do not usually talk even amongst ourselves, about how we feel when our efforts, made with “good intentions” are met with hostility, or we are accused of being racist, or we are silenced by the sheer weight of the guilty burden of our colonial past. I am not suggesting

that non-indigenous people wallow in a self-indulgent guilt that encourages us to be no more than passive recipients of Indigenous pain. Nor should we burden Indigenous peoples with our guilt. The fear and paralysis created by the denial, silencing and guilt about our past is what Settlers must now struggle to overcome. While we cannot ignore the importance of addressing the substantive issues related to roads, or consultation, or treaties, or residential schools, neither should this preclude or negate the importance of recognizing, of acknowledging that history sits at the table with us. Ignoring or denying this reality will not make it go away. It is not a case of whether we will talk about substantive issues or the deep wounds that characterize the violence inherent in colonialism. We will do both, whether we intend to or not. When we deny the past in the present, our very silence speaks volumes to Indigenous peoples.

Becoming Authentic Peacemakers and Indigenous Allies – Strategies for Settlers

Transforming ourselves from perpetrators into authentic peacemakers involves becoming Indigenous allies in the struggle of decolonization. Historians and conflict resolution scholar/practitioners, as advocates for social and political change, have a role to play in educating the Canadian public in ways that go beyond providing information. They can focus on finding new ways to facilitate experiential learning in pedagogical spaces that support the restorying of history. By demythologizing the benevolent peacemaker myth, and making substantive space for Indigenous diplomacy, law and peacemaking practices in intercultural truth-telling processes, we create new transformative pathways to decolonizing Canada. Keeping in mind that we must begin from where we are, Settlers who work in Indigenous contexts must find more effective ways of integrating decolonizing theory and transformative practice into our everyday work.

In Chapter Six, I summarized my understanding of the decolonizing principles and practices that guided the work of the Hazelton team as we prepared for the feast. I drew on Lederach's work with regard to developing what he calls "qualities of practice." He suggests that those who are involved in the difficult work of transforming deep-rooted conflict and transcending cycles of violence must do more than simply learn new communication skills and techniques such as active listening, asking open questions, and reframing issues. Rather, we must focus on developing deeper qualities of practice that enable us to work more effectively within "the actual messiness of ideas, processes, and change..."⁵⁴³ Lederach says that the work of authentic reconciliation cannot be prescriptive, but involves embedding our thoughts and actions in a genuine spirit of inquiry and respect for the dignity and humanity of others.

Focus on people and their experience. Seek a genuine and committed relationship rather than results...Be leery of quick fixes. Respect complexity but do not be paralyzed by it. Think comprehensively about the voices you hear that seem contradictory, both within a person, between people, and across a whole community...No matter how small, create spaces of connection between them. Never assume you know better or more than those you are with that are struggling with the process. You don't. Do not fear the feeling of being lost...Give it time.⁵⁴⁴

The qualities of practice that Lederach articulates seem counter-intuitive because they are the very antithesis of the way we are encouraged to work. At the same time, although what he advocates sounds simple, it is in fact a delicate dance of complexity and nuance. Unsettling the Settler within is about being authentic, working within complexity as we learn to listen to the knowledge and experience of Indigenous peoples. It is about being committed to a relationship rather than an "outcome," and finding new pathways to

⁵⁴³ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, ix-x. See also LeBaron, *Bridging Cultural Conflicts: A New Approach for a Changing World*; Fisher et al., *Working with Conflict: Skills and Strategies for Action*.

⁵⁴⁴ Lederach, "Five Qualities of Practice in Support of Reconciliation Processes." 193.

transcending old binary patterns of violence.

Thus multilevel approaches for restorying history may involve public history education and organizational cultural change, as well as community-based truth-telling and reconciliation processes established for restitution, apology and remembrance. Therefore, all Settlers, ordinary Canadians as well as those specialists who work in Indigenous contexts, need to think about how we can implement decolonizing principles and practices in our everyday work and lives. We know that the deep, transformative change necessary for decolonization cannot happen from within the institutional and bureaucratic structures that exist because they inevitably work to reinforce cycles of violence between colonizer and colonized. Yet the majority of Settlers work and live within these colonial systems; we created them, we support them and, (I am under no illusions) many of us have no desire to change them. But for Settlers who would be authentic peacemakers and allies, it is useful to recall Alfred's emphasis on personal decolonization as the place to begin the broader work of social and political transformation. Facing our fear and being willing to risk taking action can seem futile in the face of what seem to be overwhelming challenges. We need therefore to understand the link between personal change and political action. Alfred reminds us that:

All of the world's big problems are in reality very small and local problems. They are brought into force as realities only in the choices made every day and in many ways by people who are enticed by certain incentives and disciplined by their fears. So, confronting huge forces like colonialism is a personal and, in some ways, a mundane process."⁵⁴⁵

So we must begin from where we are not from where we want to be. Whether one is an ordinary citizen committed to social justice, or employed in a field that involves Indigenous issues, decolonization involves accepting personal responsibility for finding ways to think and act differently in our relationships with Indigenous peoples. Unsettling

⁵⁴⁵ Alfred, *Wasase: indigenous pathways of action and freedom*, 25.

the Settler within necessarily involves critical self-reflection and action in our everyday lives. Therefore, we need to create pedagogical strategies that support this learning, both on our own and in partnership with Indigenous peoples. But we must also generate a kind of critical hope – vision that is neither cynical nor utopian – if we are to become authentic peacemakers and Indigenous allies. J. Edward Chamberlin reminds us that “the business of living in the real world depends on living in our imagination.”⁵⁴⁶ Accordingly, I end this study with some thoughts about potential pathways that might be explored.

The New Middle Ground - A Genuine Leap of Imagination?

The reader will recall that in 1974, George Manuel urged Settlers to take a genuine leap of imagination, to challenge our assumptions and our myths about Canada’s history, setting aside our ethnocentric perceptions of Indigenous peoples to fully recognize their presence, humanity and nationhood. In 2005, Taiaiake Alfred said that Indigenous peoples and Settlers must engage in creative confrontation – the struggle of decolonization – in a radical reconfiguration of the colonial relations that currently prevail. James Tully observes that Settlers must shake free from the sediment of colonial history by learning to listen to why Indigenous peoples resist. In this study, I have taken up their challenges, linking theory and practice to think about the pedagogical task of unsettling the Settler within. In doing so, I explore the role of myth, ritual and history in Indigenous-Settler conflict and peacemaking. Being singularly unsatisfied with the ahistorical, unicultural ADR models being used in a range of conflict resolution processes related to contemporary treaties and historical claims, I sought to reframe reconciliation as a transformative encounter of restitution, apology and truth-telling that makes space for Indigenous diplomacy, law and peacemaking practices.

To reiterate, Williams reminds us that the West once had to listen to Indigenous

⁵⁴⁶ Chamberlin, *If This Is Your Land, Where Are Your Stories? Finding Common Ground*, 125.

peoples' visions of law and peace, their visions of peaceful coexistence rooted in story, ceremony and ritual. In our cultural arrogance and willful historical ignorance, Settlers have denied this rich history of Indigenous peoplehood, disrupting these stories with acts of colonial violence in many forms, in a past that is still present. We have devalued the role of ceremony and ritual in political life, developing a bifurcated consciousness that enables us abandon our personal ethical vision when we engage in public dialogue and negotiations with Indigenous peoples. Williams says that Indigenous peoples interacted with colonizers in imaginative ways to achieve justice. Westerners did not understand those ways then, and clearly, we still do not understand. I say this because we have adopted a language of justice and peace in our talk of reconciliation that replicates rather than transforms the cycles of violence that define Indigenous-Settler relations. This is the colonial shapeshifting that Jeff Corntassel and Taiaiake Alfred identify at its most subtle. It is the false words and actions of benevolent peacemakers. Is my call for making space for Indigenous history and culture unrealistic because it existed in the past, and is now beyond recovery because of the cultural loss experienced by Indigenous peoples? This question is misguided. It is based on Settler insistence that tradition is frozen in time; it is an expression of the belief that culture is somehow static. We should seek to find ways to make substantive space for Indigenous peoples to regenerate their history and practice of diplomacy, law and peacemaking, in their own way, according to their own needs. Our only role as Settlers is to move out of the way. The reader might want to argue that we cannot return to the middle ground of the Encounter era, so successful have we been in the colonial project. Literally of course, this is true; neither we nor Indigenous peoples are the same. How could it be otherwise?

But if we think of the middle ground as a metaphor for transformative space, an encounter of reconciliation, then our perception may shift. We might be able to envision

the Gitx̱san Feast Hall, for example, as such a space. It is still used, as Matilda Daniels tells us, in ways that support community well being. Val Napoleon suggests that dealing with the perpetrators of colonialism according to the Gitx̱san system would be a healthy and constructive thing. The feast was an attempt, however imperfect, to interact authentically. Lederach reminds us that “(t)o be gauged authentic...change can neither be ahistorical nor superficially utopian.”⁵⁴⁷ We avoid both he says by engaging people directly in whatever process is being implemented.

Constructive pessimism suggests that the most significant weakness in sustaining platforms for genuine change is the lack of authentic engagement of the public sphere...our least-developed capacities are the practical mechanisms for how people, whole communities...are engaged in the change process and how that engagement creates a sense of ownership, participation, and genuine commitment...Constructive pessimism teaches us that distrust is needed as a reality check to assure that change is not superficial, Pollyanna-ish, or disguising other intentions. Distrust assures us that we are not dipping into and promoting a cheap hope; it keeps us authentic.⁵⁴⁸

The Feast Hall is a public space into which a larger community is drawn. The participants – the survivors, the elders and Simgigyat, the families, the witnesses – all incur responsibilities because of their presence and participation. In response to the apologies made by the United Church and Canada, recall Howard’s description that “there remains a sense of wait and see.” No “miracle” of instantaneous reconciliation has occurred. But a step has been taken and it remains to be seen what will happen next. Engagement and authenticity keep the process genuine, but there is no “quick fix” resolution or reconciliation. It is simply one of many actions that must occur if we are to build a critical mass of deep transformative change.

Our work, as non-indigenous people, is the work of unsettling the Settler within, of turning the reflective mirror back upon ourselves to figure out how to shift from a

⁵⁴⁷ Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, 53.

⁵⁴⁸ *Ibid.*, 60-61.

culture of denial to an ethics of recognition to a culture of justice and peace. The restorying of history that is alive can only occur if Settlers are also willing to struggle. For us, this means developing a critical pedagogy that acknowledges our collective identity as perpetrators of colonial violence not makers of peace. But if the violent past is still with us, so too is a history of peace. Canadians, of course, think that we know this history already. We are, after all, a nation of peacemakers distinct from our American neighbours whose history is one of regenerative violence. We made treaties, they fought Indian wars. But in fact, as we have seen, the myth of the benevolent peacemaker has served only to delude us into thinking ourselves morally superior as we focused on “saving Indians” with our benevolence and generosity. Writing within an American context, historians James C. Juhnke and Carol M. Hunter make the link between historical and contemporary violence to argue that Americans must develop a new historical consciousness that challenges “the myth of redemptive violence” to look at history instead “from the viewpoint of peace values.”⁵⁴⁹ In this sense, Canadians have an additional challenge in that we think our national history *is* one of peace. One need only look at our popular history that emphasizes treaty-making and the bringing of law and justice to the frontier. Our self-proclaimed mission was to “civilize the savages.” But in light of the history of residential schools, in which Indigenous peoples broke the silence to tell the truth, a truth to which Canada has still only partly listened, we must ask: Who are the true peacemakers?

Juhnke and Hunter call for a new pedagogy of history that engages the public in a more critical, self-reflective search for historical understanding that engenders hope for social and political change, a call that applies equally to Canadians in the 21st century.

⁵⁴⁹ James C. Juhnke and Carol M. Hunter, *The Missing Peace: The Search for Nonviolent Alternatives in United States History* (Kitchener, ON: Pandora Press, 2001), 12-13.

A connection between contemporary violence and the history that we have been taught may appear preposterous or ludicrous at first, since few of us (historians included) remember any of the history we were taught...Few people remember these details of history, but we all carry a very vivid history that has been absorbed, rather than processed, and so remains unconscious.⁵⁵⁰

Like transformative educators, they also acknowledge that critical historical revisionism is potentially demoralizing and incapacitating rather than empowering and liberatory.⁵⁵¹ This is why we must engage *authentically* in the giving and receiving of testimony, recognizing the profound power and potential of myth, ritual and history to transform us. Writing about building a culture of peace, Anne Goodman asks those that she works with a key question, one that is designed to provoke both critical reflection and action that is rooted in a larger vision: "How are you working towards a culture of peace?"⁵⁵²

Settlers who would transform ourselves from benevolent to authentic peacemakers and become Indigenous allies must ask ourselves an additional question: How am I working towards decolonizing Canada? What am I doing within myself, my family, my community, and my workplace today that is leading towards justice and peace? It is my (critical!) hope that in answering this question, Settlers will become deeply unsettled in our minds, our hearts, and our spirits so that we can finally take the genuine leap of imagination necessary to make space for the Indigenous peoples of this land whose history, presence and humanity we have denied for so long. These are the transformative pathways towards a new middle ground that is rich and fertile, but needs our time, attention, love and energy to flourish. This is the work of the more authentic peacemaker.

⁵⁵⁰ Ibid., 11.

⁵⁵¹ See for example, Schugurensky, "Transformative Learning and Transformative Politics: The Pedagogical Dimension of Participatory Democracy and Social Action."; O'Sullivan, "The Project and Vision of Transformative Education: Integral Transformative Learning."

⁵⁵² Goodman, "Transformative Learning and Cultures of Peace," 192.

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